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CHARLES ELMORE CROPLEY

Supreme Court of the United States.

October Term, 1938.

No. 11, Original.

The State of Texas,

Complainant,

v.

The State of Florida et als.,

Respondents.

APPENDIX TO BRIEF FOR THE RESPONDENT COMMONWEALTH OF MASSACHUSETTS.

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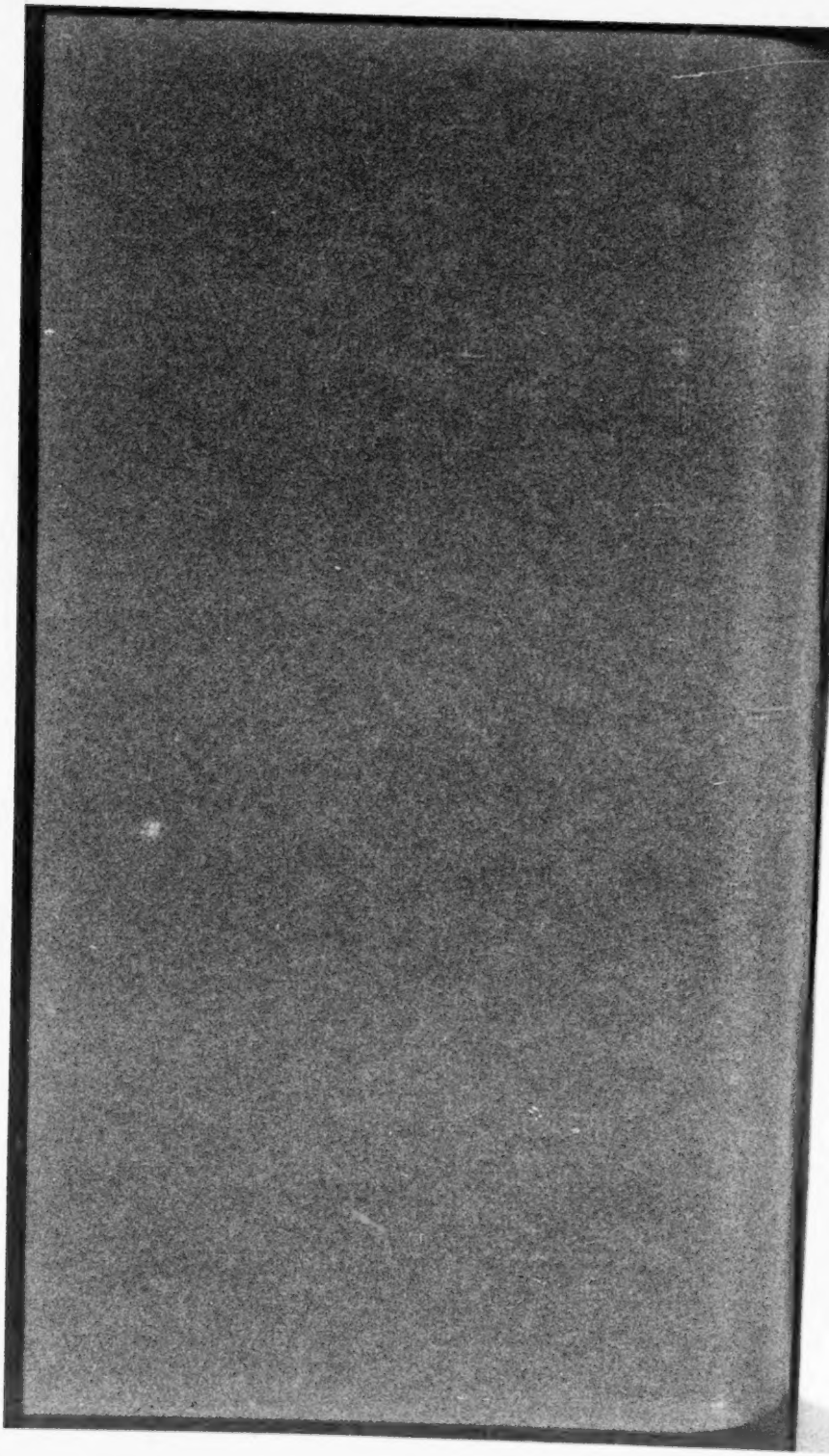

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THE STATE OF FLORIDA ET ALS., *Respondents*.

APPENDIX TO MASSACHUSETTS BRIEF.

1. Statement of facts supporting the findings for Massachusetts, with references to supporting evidence.

2. Reprint of Master's Findings of Fact with passages excepted to italicized and commented on.

FOREWORD.

This appendix contains two sections:

First is a comprehensive statement of the facts upon which Massachusetts rests her claim to domicile, cross-referenced to the Master's Report ("R."), and fully documented with references to the Master's Digest ("D."), the stenographer's transcript of the evidence ("Ev.") and the exhibits ("Ex."). This was prepared to assist the Court in such inquiry as it may make as to whether the evidence supports the Master's findings for Massachusetts.

Second is a reprint of the Master's findings of fact (R. 19-57), in which every passage excepted to is italicized, and the exception is followed by our appropriate comment. This will enable the Court to see at a glance the extent to which the report is unchallenged and the value to be attached to the exceptions.

Part I.

Statement of Facts Supporting the Findings for Massachusetts, with References to Supporting Evidence.

Death of Mrs. Hetty Green and Green's Release from New York.

1. From his school days up to the time of his mother's death, Green had been continually in his mother's employment and under her domination, at first attending to her properties in Chicago, then to the management of her railroad in Texas (R. 23) and finally assisting her in the care of her property in New York (R. 29, 30, 51). Throughout this period his successive places of abode in Illinois, Texas and New York and to a large extent the general conduct of his affairs were the result not of his own free choice but of his mother's wishes. She was a woman of extremely dominating character, of whom Green lived in fear and respect combined with unusual filial affection.

Had been in his mother's employment and under her domination from his school days: in Chicago, Texas Ex. 288 (Ev. 2332-3; D. 66); in Texas, McKay, Ev. 578; D. 24; Mangels, Ev. 8457-8; D. 360; Mass. Ex. 67 (Ev. 5843-5; D. 268); in New York, Texas Ex. 288 (Ev. 2336-7; D. 65-6); Mass. Ex. 3 (Ev. 119; D. 7); Potter, Ev. 3103; D. 124-5; Tucker, Ev. 8839; D. 372.

Fear, respect and affection for his mother: Corley, Ev. 323-4; D. 15; McDonald, Ev. 461-4; D. 19; Stafford, Ev. 5004; D. 210.

2. Upon his mother's death in July, 1916, Green for the first time was emancipated from her control and influence (R. 35) and came into his fortune (R. 51). Within a month he moved the office from the 7 West 90th Street house, where his mother had maintained it, to an up-to-date office suite at 111 Broadway (R. 28, 29). He continued to live in the house at 5 West 90th Street for a year, but after July, 1917, he was there only four weeks and in January, 1918, he moved to a furnished suite at the Waldorf-Astoria (R. 29, 32). He moved none of his furniture, pictures or furnishings from

the house to the apartment, but kept them stored until 1921, when most of them were sent to Round Hills (R. 29, 54). The rest of them were sent to Round Hills in 1928, when the 5 West 90th Street house was demolished.

Moved office August 1, 1916; N.Y. Ex. 1 (Ev. 378; D. 16).

After marriage, lived on yacht and spent only about four weeks in 5 West 90th Street: Mrs. Holcinger, Ev. 2925, 2972; D. 111, 114; Stafford, Ev. 4954-5; D. 206-7.

Moved no furniture, etc., to Waldorf in 1918, but transferred it to Round Hills in 1921 and 1928: Berglund, Ev. 5665-6; D. 257; Mrs. Holcinger, Ev. 2935, 2963-9; D. 112, 114; Van der Putten, Ev. 4335-8; D. 174.

3. Within a few months after his mother's death Green purchased a Great Lakes steamer, brought it to the Atlantic seaboard, had it cut in two, lengthened fifty feet (R. 29), and converted into the largest private yacht in the world. This yacht, the "United States," carried a crew of seventy-two officers and men (R. 29). When Green was in New York during the latter half of 1917, instead of living in the house at 5 West 90th Street he lived on the yacht, which he had anchored off West 86th Street in the Hudson River (R. 32).

Yacht: purchased in 1916, as soon as Green could after his mother's death, Fla. Ex. 2 (Ev. 3488; D. 150); Marshall, Ev. 5353; D. 241; steamer lengthened and converted, Marshall, Ev. 5353-4; D. 241; redecorated and furnished, Van der Putten, Ev. 4320-1; D. 172.

Crew of seventy-two men: Bennett, Ev. 6787-8; D. 320.

Stayed on yacht instead of in 5 West 90th Street: Stafford, Ev. 4954-5; D. 206-7; Mrs. Holcinger, Ev. 2925, 2972; D. 111, 114; off Columbia Yacht Club, Bennett, Ev. 6781; D. 319; at 86th Street and the Hudson, N.Y. Ex. 50 (Ev. 3272; D. 133).

4. Released by the death of his mother and by the inheritance of his fortune (R. 35, 51), there was nothing to keep Green in New York (R. 54) except his duties in connection with the probate and administration of her estate, of which he was sole executor (R. 22, 29). Her will was admitted to probate in Bellows Falls, Vermont, but administration was delayed by lengthy litigation in which Green contested the claim of New York State for transfer inheritance taxes—a

matter that required two separate trials, with Green as the chief witness for the estate. With this litigation won, however, and with the trusts under his mother's will established, Green was finally his own master. Within eighteen months of Mrs. Hetty Green's death, he had become the owner of the largest yacht in the world, married, closed the house in New York City (R. 29), where he had been living for years (R. 28, 29), and had started developments on a grand scale for the establishment of a home and country estate in Massachusetts (R. 35, 51, 52).

Mrs. Hetty Green's estate: Green sole executor, Texas Ex. 288 at Ev. 2331; (D. 65-6); trials, Texas Ex. 288 (Ev. 2326-46; D. 65-73); N.Y. Ex. 224 (Ev. 7698-7701; D. 196); statements of counsel, Ev. 2311-12.

Green's Attitude towards New York.

5. Except possibly at the very beginning of his stay in New York Green showed no interest or ambition in business or finance (R. 21). Familiarity with the competitiveness of Wall Street life and the difficulties of attaining success and prominence gave Green a distaste for life in New York, and for the people who lived there (R. 31, 54).

No interest in finance: Potter, Ev. 7861-3; 7865-8, 7886-7; D. 403-5.
Disliked competitiveness of New York business: Corley, Ev. 282; D. 12; McKay, Ev. 661; D. 29-30; Tucker, Ev. 8839; D. 372.

6. Green's attitude towards New York became more and more detached beginning with the death of Mrs. Hetty Green, increasing with Green's marriage, and culminating with his occupancy and development of the property at Round Hills (R. 28, 29, 35).

See references under paragraphs 1-4, inclusive, 11 and 26-47, inclusive.

7. Finally, during at least the last ten years of his life, Green regarded his apartment in New York as merely a stopping-off place on his trips North and South (R. 33). It

contained only the portion of his stamp collection which he had allowed to remain static since 1927, some cast-off clothes of Mrs. Green's, and a few personal belongings of his, worth less than a thousand dollars (R. 33, 34).

New York City became merely a stopping-off place: J. O. Green, Ev. 3026; D. 118; Lincoln Brown, Jr., Ev. 8389; D. 356; Cleary, Ev. 9478-9 (1930); D. 395; Newington, Ev. 2766-7; D. 91; see also Strandell, Ev. 9687-9; D. 405, and the following exhibits:

"* * * only temporary and is used only for a short time between my summers in Massachusetts and winters in Florida."—Letter from Green at Round Hills in 1931, Mass. Ex. 313 (Ev. 5331-3; D. 239).

"My visits to New York are rather infrequent of late and of short duration * * *."—Letter from Green at Star Island in 1930, Mass. Ex. 279 (Ev. 5317; D. 238).

"May 15 * * * at which time I expect to be *returning from the south on my way to South Dartmouth.*"—Letter from Green at Jacksonville to Chase in New York in 1923, Mass. Ex. 138 (Ev. 6000-1; D. 275).

"* * * the first of June, when I shall *start trying to migrate back* to 'The Land of the Pilgrim Fathers.'"—Letter from Green in Marlin in 1926, Mass. Ex. 205 (Ev. 6080-2; D. 280).

"* * * until I get back to South Dartmouth, which will be at the *earliest date I can get there.*"—Letter from Green in Marlin in 1925, Mass. Ex. 197 (Ev. 6071-2; D. 280).

"Unfortunately for me, I am expecting to go away tomorrow on a trip south, to see if I can boil out the little rheumatism that is left in me. My address for the next two weeks will be Waldorf-Astoria * * *."—Letter from Green at Round Hills, December 16, 1922, Mass. Ex. 129 (Ev. 5277-8; D. 235).

"I am leaving here in a few days for New York, but during my short stay there will not have time to go into anything in the numismatic line. I am sending all your shipments direct to South Dartmouth * * *."—Letter from Green at Star Island in May, 1928, Mass. Ex. 240 (Ev. 6098-9; D. 282).

Stamp collection static since 1927, Potter, Ev. 3581; D. 157.

Contents of Sherry-Netherland suite: appraisal of personal effects, furniture, etc., $882, Texas Ex. 321 (Ev. 2518-23; D. 76); Green's letter to Pierson in October, 1932, Mass. Ex. 329 (Ev. 5188-9; D. 228); stamp collection in New York was "given up" prior to 1934, Mass. Ex. 342 (Ev. 5323-5; D. 239); Potter, Ev. 3581; D. 157; Marshall, Ev. 5387; D. 243.

Green's Marriage and Establishment of a Home.

8. Within a year after his mother's death, Green married Miss Mabel Harlow at Highland Park, Illinois, in July, 1917 (R. 22, 29). In the following month Green and Mrs. Green sailed in the "United States" to Buzzards Bay and an-

chored off Round Hills Farm, a property which Green and his sister had inherited from their mother (R. 19, 35).

Marriage: Announcement, N.Y. Ex. 2 (Ev. 380; D. 16); Stafford, Ev. 4954; D. 206; Marshall, Ev. 5354; D. 241.

Sailed to Round Hills: Davis, Ev. 6512, 6527; D. 305-6; Stafford, Ev. 4955; D. 207; Marshall, Ev. 5355; D. 241; Mass. Ex. 69½ (Ev. 5226; D. 232).

9. Green had been to Round Hills before, when, as a boy in his 'teens, he had spent two summers there with his mother and sister. It was a seacoast property of approximately 130 acres located in South Dartmouth, Massachusetts, about eight miles from New Bedford (R. 35). This land had been in the ownership of Green's Howland ancestors for over two hundred years (R. 19, 35), from the time of the original Indian grants (R. 19), and was known to Green, and habitually referred to by him, as his ancestral estate. The only structures then on the property were the old Howland homestead, a barn, workshop, corn crib and sheds (R. 35).

Green at Round Hills as a boy: Peckham, Ev. 6374-5; D. 298; Davis, Ev. 6528-9; D. 306; Berglund, Ev. 5717; D. 262.

Acreage and ownership: McLeod, Ev. 6343-8; D. 296; corrected as to acreage, Ev. 6559-61.

Ancestral estate: Berglund, Ev. 5717; D. 262; Marshall, Ev. 5350-1; D. 251; Mass. Exs. 148 (Ev. 5278-80; D. 235), 198 (Ev. 6073; D. 280); and 246 (Ev. 6109-10; D. 283); McKay, Ev. 711, 756, 806; D. 32, 34, 35; Corley, Ev. 322; D. 14; Wells, Ev. 244-5; D. 9; Kiest, Ev. 1223; D. 53; Emery, Ev. 6382, 6384; D. 298; Carlson, Ev. 5860; D. 269; Stafford, Ev. 4956-7; D. 207.

Buildings on property: Peckham, Ev. 6377-8; D. 298.

10. On the visit which Green made in August, 1917, he determined to develop the property into a great country estate and to build there his permanent home. Forthwith he gave orders designed to carry this plan into effect. Then, and on several return visits that fall, Green gave orders for the construction of an 800-foot wharf, a breakwater and a 50,000-gallon water tank with pump house and windmill for the "United States"; a greenhouse, two

gardeners' cottages (R. 35), and bath houses on the bathing beach (R. 36). The construction ordered at that time cost about $80,000 to $90,000. He had adjoining properties surveyed and titles examined, with a view to their purchase, and conferred with an interior decorator regarding the decorations for his future Round Hills home (R. 35). He employed a gardener and gave directions for clearing and grubbing the property for cultivation. After Green had done these things, he and his wife and Mrs. Stafford late in October sailed in the "United States" to Galveston, Texas (R. 29), returning to New York in the middle of December.

Determination to build home at Round Hills: Marshall, Ev. 5355-6; D. 241; 5468-9; D. 248; Stafford, Ev. 4956; D. 207; and the following exhibits:

"Permit me to confirm a conversation I had with you some time ago, Regarding the future decorations you may require for your new Home Round Hills New Bedford Mass."—Letter of October 20, 1917, Van der Putten to Green, Mass. Ex. 426 (Ev. 6602-3; D. 308);

"I hope some time to make Massachusetts my home * * *."—Letter of Oct. 28, 1918, Green to Mass. Fuel Admr., Mass. Ex. 77 (Ev. 5234-7; D. 232);

Intention to make Round Hills a show place, letter Green to Prescott, Mass. Ex. 86 (Ev. 5245-9; D. 233);

"* * * my intentions are to remain with you * * *."—Letter of May 20, 1921, to the Assessors of Dartmouth, Mass. Ex. 110 (Ev. 5123-5; D. 218-9).

Construction work ordered: Taylor, Ev. 6984; D. 328; Davis, Ev. 6512, 6518, 6534-5, 6536-7; D. 305-6; Potter, Ev. 3556; D. 155-6; Mass. Ex. 419 (Ev. 6514-16; D. 305); Mass. Ex. 420 (Ev. 6519-22; D. 305); Mass. Ex. 421 (Ev. 6524; D. 306); Mass. Ex. 422 (Ev. 6526-7; D. 306); Mass. Ex. 423 (Ev. 6530-4; D. 306).

Employed gardener, etc.: letter Green to Davis, Mass. Ex. 422 (Ev. 6526; D. 306); Davis, Ev. 6527-8; D. 306; Marshall, Ev. 5563-4; D. 252.

11. In the years 1918 to 1921 Green was principally employed in the development of the Round Hills estate and adjacent harbor facilities and the planning, construction and furnishing of his home (R. 35). He was eager for the speedy completion of the work but was delayed by war conditions. In June, 1919, Mrs. Green performed the ceremony of turning the first spadeful of earth for the foundation of the new home (R. 35). During its construction Green was constantly in and about the work, observing the workmen and

attending to the most minute details (R. 35, 46). In 1918 and the two following years he spent from the first of July to the middle of October in the vicinity of Round Hills. While there he lived on the yacht "United States" in 1918 and again in 1919 (R. 29) until she sank in August (R. 35). For the balance of that season he stayed near by at the Tabitha Inn in Fairhaven, Massachusetts. In 1920 he lived on the houseboat "Day Dream," which was kept continuously in Padanaram Harbor adjacent to Round Hills (R. 29, 35). During these years he also made several trips of a few days' duration in the spring and fall in order to observe the progress of the work (R. 35). Before the house was ready for occupancy Green had spent $1,500,000 in the development at Round Hills, of which $750,000 had gone into the construction and furnishing of the house (R. 42). In July, 1921, the house was ready for occupancy and Green and Mrs. Green moved in (R. 35).

Green's interest in and occupation with details of developments at Round Hills, 1918-1921: Davis, Ev. 6539-58; D. 306-7; Sullivan, Ev. 7560-1; D. 333-4; Harris, Ev. 6627-30; D. 310; Berglund, Ev. 5669-70, 5673; D. 257-8; letters between Green and Bossom, Mass. Exs. 92 (Ev. 5920-3; D. 271), 445 (Ev. 7490-3; D. 330), 446 (Ev. 7493-4; D. 330), 449 (Ev. 7510-14; D. 330), 450 (Ev. 7516-20; D. 330), 451 (Ev. 7523-4; D. 331), 452 (Ev. 7524-30; D. 331), 453 (Ev. 7530-5; D. 332), 454 (Ev. 7535-8; D. 332), 455 (Ev. 7538-41; D. 332), 456 (Ev. 7541-4; D. 332), 457 (Ev. 7545-6; D. 332), 458 (Ev. 7547-8; D. 332), 459 (Ev. 7549-51; D. 332); letter Green to Prescott, Mass. Ex. 86 (Ev. 5243-9; D. 233); letters between Green and Davis, Mass. Exs. 423, 424, 425 (Ev. 6530-4, 6553-5 and 6556-7; D. 306-7), and Mass. Ex. 75 (Ev. 5897; D. 271); letters Green to his gardener, Mass. Exs. 438 and 439 (Ev. 7047-53; D. 330); letter about war conditions and labor, Mass. Ex. 73 (Ev. 5895; D. 271); letter ordering line for electricity, Mass. Ex. 72 (Ev. 5228; D. 232); letter ordering 2000 rambler roses, Mass. Ex. 89 (Ev. 5249; D. 233); memo re lilacs, Mass. Ex. 91 (Ev. 5919; D. 271); letter Bossom to Sullivan about construction of vault for liquor, Mass. Ex. 447 (Ev. 7494-7500; D. 330); letters between Green and Van der Putten concerning moving of furniture, Mass. Exs. 428 and 429 (Ev. 6607-11; D. 308), and Mass. Ex. 63 (Ev. 4336; D. 174); letters between Green and Taylor concerning breakwater and sea wall, Mass. Exs. 105, 106 and 107 (Ev. 5952-7; D. 272).

Green was impatient with the delay arising out of war conditions: Sullivan, Ev. 7585; D. 335; Davis, Ev. 6539, 6547, 6558; D. 306-7; letter about labor shortage, Mass. Ex. 73 (Ev. 5893-6; D. 271); and see Bossom's letter, Mass. Ex. 459 (Ev. 7549-51; D. 332-3).

Ceremony starting foundations: Berglund, Ev. 5669-70; D. 257; Harris, Ev. 6627-8; D. 310.

Time spent there: see Table B and supporting references to Evidence attached to Massachusetts Requests to Find.

Money spent: see breakdown of capital account, Mass. Ex. 411 (Ev. 5818-30; D. 267).

Moved into house July 1921: Berglund, Ev. 5674-5; D. 258; Sullivan, Ev. 7560; D. 333.

12. Green understood that his sister, Mrs. Wilks, was willing that he should have the right to occupy the Round Hills property and to do what he pleased with it during their joint lives and if he survived her he should have the entire ownership. Green on his part intended that on his death Mrs. Wilks should have the entire ownership and his will executed in 1908 left everything to her in case his mother did not survive him. Green had arranged that his wife should obtain no interest in his estate, by means of an antenuptial agreement which provided that Mrs. Green should receive a guaranteed income of $18,000 a year for her life in consideration of her relinquishment of dower and any other interest which she might otherwise have or acquire in Green's property or estate wherever located. As Green and his sister were the last of their line and were without any expectation of issue, it was Green's plan that after his death the house should stand as a memorial to the Green and Howland families, and with this in mind, Green had the house designed in such a way that it might then be converted into a hospital or some other kind of institution. His primary intention, however, was to build a large, simple home, and beyond that he never developed his ideas to the point of deciding what use would be made of it after his death or of planning how a conversion would be put into effect. From the time he moved into the house in July, 1921, until his death, Green used it as a home for himself and his household, and not for any other purpose (R. 36).

Arrangement with Mrs. Wilks as to use of Round Hills: Berglund, Ev. 5717-19 (cf. Ev. 5777-80; D. 262-4); Neyland, Ev. 6740; D. 317; Davis, Ev. 6586; D. 308.

Will and antenuptial agreement: Mass. Exs. 58 and 56 (Ev. 3412; D. 142; and Ev. 3382; D. 139).

Not definite as to what sort of institution: see conflicting statements made by Green to Corley, Ev. 405; D. 17; McKay, Ev. 638; D. 27; Davis, Ev. 6578-80; Neyland, Ev. 6718-19, 6730-1; D. 315-16; Berglund, Ev. 5710-12; D. 261; Van der Putten, Ev. 4324; D. 173; Price, Ev. 3739-40; D. 162; Fla. Ex. 356 (Ev. 9515; D. 396); Bowles, Ev. 6881-2; D. 325; Buie, Ev. 871; D. 39; Parker, Ev. 4821; D. 196.

Did not plan how a conversion would be put into effect: Hartwig, Ev. 7837-8; D. 203; Sullivan, Ev. 7579-85; D. 335; see also architect's plans, N.Y. Ex. 99 (D. 177).

Round Hills house was intended throughout to be used as Green's home during his lifetime: Bossom's letter, Mass. Ex. 451 (Ev. 7523-4; D. 331); Van der Putten, Ev. 4354; D. 174; Sullivan, Ev. 7585-7, 7590; D. 335; Berglund, Ev. 5670, 5717-19, 5777-80; D. 257, 262, 264; Hartwig, Ev. 7818-19; D. 201; Mass. Ex. 470 (Ev. 9736-8; D. 407); Bowles, Ev. 6846-7, 6881-3; D. 324-5; Hill, Ev. 6898-6900; D. 326.

Conversion not to take place until after Green's death: Berglund, Ev. 5710-12, 5777-80; D. 261, 264; Emery, Ev. 6441, 6447; D. 302; Neyland, Ev. 6683-4, 6739; D. 314, 317; Parker, Ev. 4821-4; D. 196.

Time Spent in Massachusetts.

13. In 1921, when the Round Hills house was first occupied (R. 35, 51), Green spent three and one-half months there from July 1st to October 15th, leaving soon after on his fall trip to Texas. The house remained open and completely staffed, but Green's acute illness in Dallas in October, 1921, and his subsequent medical treatment in New York made his return to Round Hills that year impossible.

July 1 to October 15, etc.: see Tables A and B and supporting references to Evidence attached to Massachusetts Requests to Find.

House remained open and completely staffed: Berglund, Ev. 5790; Bennett, Ev. 6815.

Illness confined him to New York that fall: Pascal, Ev. 4130, 4137-8, 4140-2; D. 164-5.

14. From 1922 throughout the remainder of his life Green spent approximately five and one-half months of every year at Round Hills, except in four years when illness required him to go to New York City for medical attention or to Asheville, N.C., Lake Placid, N.Y., or Florida for the sake of his health. In the other ten of these fourteen years he arrived at least as early as July 1st and remained into December (R. 43).

See Tables A and B and supporting references to Evidence attached to Massachusetts Requests to Find.

Three years: 1923, medical attention in New York, Nov. 15 to Dec. 26, Pascal, Ev. 4145; D. 165; 1930, sent to Asheville, N.C. for sake of his health, Pascal, Ev. 4167-8; D. 167; 1932, sent to Lake Placid for same, Pascal, Ev. 4176-7; D. 167; in 1935 Green left late in November at which time he was approaching his final collapse (see references under paragraph 36, *infra*).

Physical Characteristics of Massachusetts Dwelling Place.

15. The Round Hills property passing under Hetty Green's will was a triangular tract, with sandy shores, jutting into Buzzards Bay. It was mostly wooded and uncultivated farm land, on which were located the old Howland homestead, a few farm buildings and a small family graveyard containing two old graves of members of the Howland family. Between 1918 and 1920, Green purchased about 140 contiguous acres, principally from his Howland cousins. This land completed the tract between the Point and the public highway, except for two small pieces of about 4 acres each, which Green purchased in 1925 and 1927. Green never sold any of this land, although in 1925 he conveyed about 4 acres to Whaling Enshrined, Inc., a charitable corporation. At the time of Green's death, the Round Hills estate comprised approximately 270 acres. The estate had a bathing beach on each side of Round Hills Point. On the property there were some woods and about 150 acres of farm land. The rest of it was given over to lawn and shrubbery. Apart from the Round Hills estate Green, in 1918, acquired a property known as South Wharf situated in Padanaram, a section of South Dartmouth, about a mile away from Round Hills, and this served as headquarters for his fleet of boats. In conjunction with this wharf he built a machine shop and added a floating stage to facilitate landing (R. 36).

Inherited property: chart, Mass. Ex. 413; D. 296-7; uncultivated, Marshall, Ev. 5355; D. 241; beaches (north and south), Tullouch, Ev. 7105 and 7108; D. 341; buildings, Peckham, Ev. 6377-8; D. 298; graveyard, Marshall, Ev. 5438-9; D. 246; and view.

Purchases of land, chiefly from Howland cousins: McLeod, Ev. 6349-65, 6561; D. 297; Mass. Ex. 413; D. 297 (chart).

Conveyance to Whaling Enshrined the only land conveyed: McLeod, Ev. 6367-9; D. 297.

Farm 150 acres: Tullouch, Ev. 7093-5; D. 340.

South wharf: acquired in 1918, Mass. Ex. 76 (Ev. 5899-5900; D. 271); headquarters for boats and floating stage, Bennett, Ev. 6787-9; D. 320; Davis, Ev. 6577, 6587; D. 308; machine shop, Mass. Ex. 411, Ev. 5829; D. 267.

16. Between the fall of 1917 and the middle of 1921, Green had constructed on the estate in addition to his house some half dozen cottages and a large multiple dwelling for farm employees, numerous farm buildings and garages, two large greenhouses, an 800-foot wharf, a 50,000-gallon water tank, bath houses and a bath pier. He built jetties and retaining walls along the shore to prevent erosion. He erected high wire fences around the inland boundaries of the estate, and planted thousands of rambler roses along their entire length. Green later added, among other things, an open-air swimming pool and a tennis court for the use of his wards and other guests, two radio broadcasting stations with antennæ towers, workshops, laboratories and an airport with an airplane hangar and an airship dock. He brought to the estate a Rhode Island windmill of pre-Revolutionary days, a complete whaling ship formerly of the New Bedford fleet and an old blacksmith shop and candle factory reminiscent of the old whaling industry. At the time of his death there were about 60 buildings on the property (R. 36).

Construction 1917-1921: Big house, contract, Mass. Ex. 85 (Ev. 5908; D. 271); Sullivan's testimony; cottages, etc., Mass. Ex. 412 (photographs); D. 268; and see Davis letter, Mass. Ex. 423 (Ev. 6530-4; D. 306); large multiple dwelling, Davis, Ev. 6541, 6549-50; D. 306, 307; two large greenhouses and seven-stall garages (1917), Mass. Exs. 424 and 425 (Ev. 6553-7; D. 307); Davis, Ev. 6548 (1919); D. 307; Mass. Ex. 84 (Ev. 5902; D. 271); 800-foot wharf, water tank, bath houses, pump house, etc., Mass. Ex. 423, *supra* (Ev. 6530-4; D. 306); bathing pier (1921), Davis, Ev. 6541; D. 306; marine railway, Mass. Ex. 381 (Ev. 6274; D. 293); and jetties, Mass. Ex. 420 (Ev. 6519-22; D. 306); retaining wall, Mass. Ex. 106 (Ev. 5954-6; D. 272); sea-wall, Mass. Ex. 385 (Ev. 6285; D. 293); fences and roses, Mass. Exs. 86, 89 and 90 (Ev. 5243-50; D. 233).

Construction after 1921: swimming pool, Taylor, Ev. 6977; D. 328; tennis court, Sullivan, Ev. 7580; D. 335; Mass. Ex. 456 (Ev. 7541-4; D. 332); broadcasting stations, Taylor, Ev. 6966-7; D. 328; laboratories,

etc., Odierne, Ev. 6496; D. 304; Davis, Ev. 6651; D. 312; airport, etc., Taylor, Ev. 6967-9; D. 328; old windmill, Emery, Ev. 6385; D. 299; whaleship, blacksmith shop, candle factory and oil works, Taylor, Ev. 6965; D. 328; from artesian wells dug in 1930, Mass. Exs. 293, 294 and 295; (Ev. 6150-8; D. 286); and Mass. Exs. 301, 302 and 303 (Ev. 6162-6; D. 287).

17. The house at Round Hills was a three-story granite structure, roughly rectangular, with its length running north and south and with rectangular wings across each end. The east face of the building overlooked Round Hills Point and was separated from the north beach, at its nearest point, by about 500 feet of lawn. Coming up the main driveway, one approached the west or inland side of the house, from the center of which protruded a large portico of Doric design with four columns two stories high surmounted by a heavy pediment. The house had a hip roof, heavily tiled and broken by numerous dormer windows. A two-story service wing extended from the main north wing, leading to a service yard and garages. Along the waterfront side of the building was a wide tile terrace which extended around the south wing and terminated in an open loggia overlooking the south beach. The floor of the loggia was of glazed tile so as to permit dancing there (R. 37). The tile on the terrace was completely replaced in 1930 at a cost of about $14,000.

Architecture, position and appearance: architect's plans and elevations, N.Y. Ex. 90; D. 177; chart of property, Mass. Ex. 413; D. 296; photograph of house, Mass. Ex. 65; D. 174.

Service yard and garages: photographs in evidence; see also letter, Green to Duff, N.Y. Ex. 136 (Ev. 4553; D. 184).

Glazed tile in loggia to permit dancing: letter Green to Bossom, Mass. Ex. 452 (Ev. 7525; D. 331); tile replaced on terrace, cost $13,819.00, Mass. Ex. 292 (Ev. 6147-50; D. 286).

18. Under the portico was the main entrance, decorated with stone scrollwork, leading into the central hall which also opened onto the terrace at the other side. This hallway contained a double mahogany staircase to the second floor and an electric elevator running from the basement to the

third floor. To the right were Green's study, the library and a hall leading to the living room, which occupied the entire south wing and measured approximately 60 feet by 30 feet. Secluded from the main hall to the left of the entrance was the Round Hills estate office where the farm accounts and payrolls were kept, and which contained a telephone switchboard connecting the extensions in the house and in the various buildings on the estate with each other and the New Bedford central office. Further along to the left, the hallway opened into the dining room measuring approximately 40 feet by 30 feet, through which one passed to reach the breakfast porch in the north wing. At this end of the building were also a butler's pantry measuring 25 feet by 22 feet, the main kitchen, servants' kitchen and dining hall, pastry room and laundry (R. 37).

Interior of house, dimensions of rooms, etc.: architect's plans, N.Y. Ex. 90 (D. 177); photographs, Mass. Exs. 65A-65V (D. 174); view.

Small office for farm accounts and payrolls: Chinn, Ev. 2789; D. 94; appraisal, Texas Ex. 326 (Ev. 3847-8; D. 79); switchboard and extensions, letter from Green to Duff, N.Y. Ex. 135 (Ev. 4549-50; D. 184).

19. On the second floor the Greens' bedrooms occupied the entire south wing, each measuring approximately 30 feet by 25 feet, and opening off the central hallway were six guest bedrooms. Each of these rooms was provided with its own fireplace and bath. Mrs. Green's bedroom was connected by a private stairway with her maid's room overhead. On the second floor there was also a room decorated as a Japanese tea room, and over the service wing were the office, bedroom and bath of Green's secretary (R. 37). The servants' quarters occupied the third floor and, with the service wing, were designed to house and feed from twenty-five to thirty house servants (R. 38). The basement contained a double-boiler furnace which was replaced by an automatic oil system installed by Green in 1935, a valet's pressing room and therapeutic room and, at one end, a

vily constructed vault for the storage of Green's valu-
s (R. 37).

Plan and dimensions of rooms: see plans, N.Y. Ex. 90 (D. 177); stairway connection between Mrs. Green's room and her maid's room, *id.*, and Sullivan, Ev. 7577-8; D. 334; Japanese tea room, Mass. Ex. 65-M (D. 174); servants' quarters, see plans; *cf.* Sullivan, Ev. 7576-7; D. 334; and Howes, Ev. 4390; D. 178; also the fact that there were twenty-five to thirty house servants there, twenty-six according to Marshall, Ev. 5379-81; D. 242; twenty-four to twenty-eight according to Mrs. Donn, Ev. 8140-1, 8145-6; D. 348 (there being seven left at Round Hills according to Hill, Ev. 6900-2; D. 327).

Basement: see plans, N.Y. Ex. 90 (D. 177); Howes, Ev. 4389-90; D. 178; new oil heating system installed in 1935, Vander, Ev. 7146; Hill, Ev. 6902-3; D. 327; vault and vault door, Mass. Ex. 452 (Ev. 7528; D. 331).

The house was massively built, the exterior walls be-
) inches thick and composed of granite blocks backed
asonry; in the interior, columns, beams and floor slabs
of reinforced concrete, and the partitions between
oms were either of brick or of terra cotta tile. The
on the roof was set in concrete supported by a steel
which rested on the outside masonry walls. Against
mpness prevailing in the locality the house was pro-
on the outside by an agricultural drainage system,
the furred space in the outer walls by a coating of
damp-proofing (R. 37).

Construction: exterior walls, Sullivan, Ev. 7570; D. 334; reinforced
ncrete, *id.*; partitions, Sullivan, Ev. 7571-2; D. 334; roof, Mass. Ex.
(D. 174); and N.Y. Ex. 210 (photographs) (D. 281); Sullivan, Ev.
57; D. 336; Howes, Ev. 4360; D. 174; Hartwig, Ev. 7820; D. 202.
Drainage system and damp-proofing, Sullivan, Ev. 7570-1; D. 334.

ns and Things There.

Green's household at Round Hills included Mrs.
his secretary Marshall, a young woman who kept
nd Hills farm accounts and payroll, another who
rge of Green's numismatic collection, Mrs. Green's
maid, a maid or practical nurse to assist Green,
taff of between twenty-five and thirty house ser-
Outside the house there were approximately fifty-

five farmers and other employees. Mrs. Stafford lived at Round Hills each year with the Greens from 1920 through 1927, and until Green's death there was almost always one or more of Green's "wards" staying at the house during summer vacation from school or college. The great majority of the outside employees remained on the estate all the year round. The entire staff of house servants also remained there during the winter of 1921-1922 but thereafter only a skeleton force of seven or eight servants was left in the house during the winter and spring seasons when the Greens were not at Round Hills. After the completion of the servants' quarters of Green's Florida house, the staff, except for this skeleton force, was sent from Round Hills to Florida in the latter part of each year and were sent back to Round Hills from Florida when the Greens left there (R. 38).

Household: Marshall from 1922 on, Marshall, Ev. 5361-3; D. 241; Mina Cayton and Elaine Chinn, Chinn, Ev. 2791; D. 94; numismatic girl, Marshall, Ev. 5398-9; D. 244; and Jette, Ev. 6614; D. 308; Mrs. Green's maid, Marshall, Ev. 5380-1; D. 242; practical nurse for Green, Bergland, Ev. 5680-1; D. 259; staff of servants and outside help, Marshall, Ev. 5379-81; D. 242; Mrs. Stafford and wards, Stafford, Ev. 4989-90; D. 209; Bergland, Ev. 5707; D. 260; Marshall, Ev. 5389-5400; D. 243; Stephenson, Ev. 6309-11, 6314, 6321-2; D. 294-5; Briggs, Ev. 6761-2, 6765; D. 318.

Outside help remained all year: Tulloch, Ev. 7095; D. 341; Hill, Ev. 6900-1; D. 327.

House servants: stayed during winter 1921-2, Bennett, Ev. 6815; Bergland, Ev. 5790; skeleton force of seven or eight thereafter, Bennett, Ev. 6815; Joyce, Ev. 2799; D. 95; balance of staff sent to Florida first in 1926 and went back and forth each year thereafter, Bergland, Ev. 5772; D. 263; Hill, Ev. 6900; D. 327; Mrs. Donn, Ev. 8140-1; D. 348; sent back to Round Hills in spring of 1936, Natsis, Ev. 7454-5; D. 330; Graber, Ev. 8885; D. 375.

22. The house at Round Hills was elaborately furnished, chiefly with specially built furniture and partly with furniture, pictures and clocks which Green had moved there from the 5 West 90th Street house in New York, some of which had formerly been in his home in Dallas. The decorations and fixtures were an expression of Green's own personality and tastes. Some of the rooms on the ground floor were provided with revolving fans suspended from the

ing, such as Green had known in Texas, with the differ-
e that the blades of these fans were made reversible for
purpose of circulating heat from the radiators in cold
ther (R. 37).

Elaborately furnished: specially made, see letter Van der Putten to Green, Mass. Ex. 429 (Ev. 6609; D. 308); Yeaton, Ev. 9703-4; D. 406; Mass. Exs. 65-A to 64-V (photographs) (D. 174); cost, Van der Putten, Ev. 4339-40; D. 174; partly with furniture, pictures and clocks from 5 West 90th Street house, Van der Putten, Ev. 4327; D. 173; Mrs. Holeinger, Ev. 2963-7; D. 114; Mass. Ex. 63 (Ev. 4336; D. 174); Mass. Exs. 428 and 429 (Ev. 6608-10; D. 308); some formerly at Dallas, see letter to Howard Clock Co., Mass. Ex. 154 (Ev. 5280-2; D. 235).

Decorations and fixtures were an expression of Green's personal tastes, rather than the decorator's: letter to Bossom as to mahogany wainscoting, Mass. Ex. 454 (Ev. 7537; D. 332); and see letter Bossom to Green contrasting Green's and Van der Putten's ideas, Mass. Ex. 451 (Ev. 7523-4; D. 331); with which compare Van der Putten, Ev. 4331-2; D. 173; also, with respect to electric outlets, compare Van der Putten, Ev. 4334; D. 174, with Sullivan, Ev. 7563; D. 334; and Bossom's letter, Mass. Ex. 445 (Ev. 7490-3; D. 330); Green's choice of electric fans, Sullivan, Ev. 7584-5; D. 335; and Green's choice of a place for his mother's portrait, Van der Putten, Ev. 4343-5.

Green brought to and kept at the Round Hills house
his personal and intimate possessions in which he
sentimental interest. This house contained the Green
nd *penates* and all the indicia of home. In the main
y was a large oil painting of Green holding his favor-
ton terrier "Stella." The walls of Green's library
ground floor were covered with innumerable ob-
ncluding pictures and plaques of whales and whaling
ith several different views of the enshrined "Charles
gan"; a framed certificate of Green's membership in
sachusetts Society of the Sons of the American Revo-
another of his membership in the Massachusetts
ltural Society; a framed photograph of the New Bed-
use where his mother was born, and another of the
s of New Bedford's "Stone Fleet"; framed photo-
of Green as a Colonel on the staff of Governor
of Texas in 1911, and as one of the judges of an
meet at the Dallas Fair in the same year; a framed
r $100,000, with which Green had, in 1921, stopped
s run on the Security National Bank in Dallas; a

photograph of Green donating the "Round Hills Trophy" to the New Bedford Yacht Club in 1930, and another of Green welcoming the famous aviators, Boardman and Polando, at his Round Hills airport in 1931. In the living room were two oil portraits of Mrs. Hetty Green and an oil portrait of Green's grandfather, Edward Mott Robinson. The library and billiard room contained numerous volumes on early New England history, log books of the New Bedford whaling fleet, a large lithograph on which were reproduced in colors the flags of the New Bedford fleet, and two machines used for stamping small medals with the names of visitors to the "Charles W. Morgan" and the dates of their visits. In these rooms were also three nickel slot machines. On the dressing table in Green's bedroom was a photograph of his mother, and on the wall hung an oil painting of the old Howland homestead. His desk and the tables in this room were crowded with mechanical devices such as computing machines, radios, optical instruments and articles used in connection with his stamp and coin collections. In the basement, there was a vault for the safekeeping of his entire supply of liquor and the bulk of his valuable collections of jewelry, numismatics and stamps (R. 37-8). Some of these collections accompanied Green to Florida and other places when he was away. For the most part they were at Round Hills at the time of his death (R. 21, 38).

Lares and *penates* at Round Hills: Portrait of Green in hallway, photograph, Mass. Ex. 65-A; D. 174; and appraisal, Texas Ex. 326 (Ex. 3815); pictures and plaques of whales and whaleships, Berglund, Ex. 5719-20; D. 262; Texas Ex. 326 (appraisal, Ex. 3854-5, 3851-2); certificates (appraisal, Ex. 3850-1); and Emery, Ex. 6405; D. 300; photo of house where his mother was born, Emery, Ex. 6406; D. 300; and appraisal (Ex. 3852); Captains of the Stone Fleet, Emery, Ex. 6439-40; appraisal (Ex. 3852); photo of Governor Colquitt's staff including Green as Colonel, letter to York, Texas Ex. 294 (Ex. 2383-5; D. 73); Marshall, Ex. 5343-4; D. 240; Green as judge of aviation meet, Marshall, Ex. 5342, D. 240; cancelled check for $100,000, Marshall, Ex. 5641-2; Green donating Round Hills Trophy, Mass. Ex. 434 (Ex. 6905; D. 327) and Hill, Ex. 6904-5; D. 327; welcoming Boardman and Polando, appraisal, Ex. 3852; and see minutes of Round Hills Radio Corporation, Mass. Ex. 437 (Ex. 7019; D. 329); portraits of Hetty Green, appraisal, Ex. 3831 and 3832; and of E. M. Robinson, *id.*, Ex. 3832; Van der Putten, Ex. 4343-5; Marshall, Ex. 5599; D. 253.

Early New England history, etc., Mass. Ex. 418 (Ev. 6388.92; D. 299); Emery, Ev. 6387.94; D. 299; detail of all such books set forth in appraisal, Texas Ex. 326; flags of New Bedford whaling fleet, Mass. Ex. 378 (photostat) (D. 293); Emery, Ev. 6395; D. 299; and Green's letters to Mansell, Mass. Exs. 160 and 168 (Ev. 6040 and 6045; D. 278); stamping machines, appraisal, Ev. 3834, and Ashley, Ev. 6462.3; D. 303; nickel slot machines, Stephenson, Ev. 6315; D. 295; and view.

Green's bedroom (appraisal, "Decedent's Chamber," Ev. 3918.3929); Howland homestead, Ev. 3919; machines, radios, etc., Ev. 3920.6; pictures of Mrs. Hetty Green, view, and Ev. 3926.

Basement: storage vault, etc., Marshall, Ev. 5388.9, 5531, 5587, 5594; D. 243, 250, 253.

Collections there at time of death: jewels, Marshall, Ev. 5587; numismatics, Jette, Ev. 6624.5; D. 309; 20th century stamps, Marshall, Ev. 5387.9; D. 243; and see Chrystie, Ev. 2554, 2563.4, 2568.

At one time Green had twelve boats of varying and sizes at Round Hills or South Wharf. He made use of them after the "United States" sank in 1919, old most of them in 1920, but the grounds surrounding ain house at Round Hills were thoroughly decorated mementoes of the sea. Hundreds of yards of anchor were placed along the borders of the driveways, with s placed at intervals. In the vicinity of the enshrined les W. Morgan" the mast and part of the hull of ecked whaling ship "Wanderer" stood on the lawn .

Boats: Fla. Ex. 3 (Ev. 3491; D. 150); Bennett, Ev. 6788; D. 320; as Ex. 296 (Ev. 2402.4; D. 74); Potter, Ev. 3557.8; D. 156.

Grounds: anchor chains and anchors, Fla. Ex. 355 (Ev. 9500.1; 96); Emery, Ev. 6436; D. 301; Neyland, Ev. 6729, 6735.6; D. 316.17; Wanderer, Neyland, Ev. 6664; D. 313; Taylor, Ev. 6965; D. 328; r mementoes of the sea, Emery, Ev. 6395; D. 299; Neyland, Ev. 6716, , 6728.9; D. 315.16; see also newspaper article, Fla. Ex. 355 (*supra*).

reen kept most of his automobiles at Round Hills, bore Massachusetts license plates (R. 39). Prior e had kept from one to two automobiles in New , bearing New York license plates, but these after transferred to Massachusetts and were only kept ork during the short periods when the Greens ping there (R. 33). Automobiles for the use of Mrs. Green were habitually taken to Florida and

back each year after the Greens started going there, and these were sometimes, but usually were not, provided with Florida license plates (R. 39).

Massachusetts cars: thirteen carrying Massachusetts plates and garaged at Round Hills in 1936, Texas Ex. 343 (Ev. 6929-49; D. 327).

New York cars: one or two kept at Commodore Biltmore garage until July 2, 1931, N.Y. Ex. 22 (Ev. 3139-41; D. 125); transferred to Massachusetts, Potter, Ev. 3364; D. 138; thereafter Green brought cars in only while stopping in New York, N.Y. Ex. 22 (Ev. 3144; D. 125); with which compare time chart, Table A and supporting references to Evidence attached to Massachusetts Requests to Find; and they remained in Massachusetts after 1933, Potter, Ev. 3364; D. 138.

Greens habitually took automobiles with them to Florida and back; Mrs. Donn, Ev. 8146; usually carried Massachusetts plates, Forrester, Ev. 8504; D. 362.

Cars carrying Florida license plates:

1923—None.
1924—None.
1925—None.
1926—None.
1927—One Buick, Fla. Ex. 296 (Ev. 9184-6; D. 384).
1928—One electric roadster, Fla. Ex. 299 (Ev. 9202-3; D. 384).
1929—Same electric roadster, Fla. Ex. 302 (Ev. 9214-18; D. 384); one Lincoln Sedan, Fla. Exs. 295 (Ev. 9181-3; D. 384); and 304 (Ev. 9224-8; D. 384); and one Lincoln Cabriolet, Fla. Exs. 301 (Ev. 9212-14; D. 384); and 303 (Ev. 9219-23; D. 384).
1930—None.
1931—One electric roadster, Fla. Ex. 312 (Ev. 9279-81; D. 384). A 1931 license was obtained also for the Lincoln Cabriolet, Fla. Ex. 311 (Ev. 9277-8; D. 384); but this was sold December 20, 1930, Fla. Ex. 314 (Ev. 9291-4; D. 384).
1932—One Stearns Knight, Fla. Ex. 316 (Ev. 9298-9300; D. 384), and one Lincoln Limousine, Fla. Ex. 315 (Ev. 9295-7; D. 384).
1933—None.
1934—None.
1935—None.
1936—One Lincoln Limousine, Fla. Ex. 319 (Ev. 9319-21; D. 384); which had previously carried Massachusetts plates *(id.,* Ev. 9320, line 13, and Texas Ex. 343 I, Ev. 6945-6; D. 327). This was the car with the glass top, traded in for a new model in January, 1936, Natsis, Ev. 7455-7; D. 330. The new car carried Massachusetts plates, Texas Ex. 343 (Ev. 6929-34; D. 327); Natsis, Ev. 7457; D. 330.

Things Done There.

(a) The Years before Round Hills was Occupied (1918-1929).

26. From June 21 to the middle of October, 1918, Green and his wife and one of his wards lived on the yacht

nited States'' anchored off Round Hills. The yacht had rew of seventy-two officers and men (R. 29), and was rounded by a flotilla of a dozen boats which Green called ''Navy'' (R. 38). Each boat had a captain and a flag. captains reported for duty every morning at 8 o'clock, to their various boats and waited for Green to raise lag of one of the boats. The boat whose flag was raised went alongside the ''United States'' and took Green re. Aside from a trip to Block Island, about 50 miles nt, and several shorter trips, the yacht did not leave nchorage (R. 29).

As to time, see Table B and supporting references to Evidence attached to Massachusetts Requests to Find.
Ruth Lawrence (Briggs), Ev. 6763; D. 318.
Crew and flotilla, Bennett, Ev. 6788-9; D. 320.
Yacht hardly left anchorage: Bennett, Ev. 6784; D. 319; Briggs, Ev. 6763; D. 318.

Green's routine that year was to breakfast on the ed States'' alone, go to Round Hills and spend practically all day watching the developments going on there, o New Bedford in one of the speed boats for a day's ng, returning to the yacht late in the afternoon. ed with his wife and guests and spent the evening yacht. Weekly he went to New York by the Fall oat on Tuesday or Wednesday night returning on ay or Friday night (R. 29). In New York he attended rs' meetings, did some shopping and went to the (R. 8).

Green's routine: Bergland, Ev. 5666, 5728; D. 257, 262; Bennett, 6785-6; D. 319; Davis, Ev. 6541-5; D. 306.
Weekly trips to New York: see Table B and supporting references Evidence attached to Massachusetts Requests to Find; shopping and tre, Stafford, Ev. 4964; D. 207.

When Green left Round Hills October 24, 1918, the States'' went to South Wharf near Round Hills, remained all winter, with its entire crew (R. 29). time it left that anchorage was to go to New Lon-

don, Connecticut, on March 30, 1919, returning on April 2d, for the purpose of having it outside of Massachusetts waters upon tax assessment day, April 1st—this being done upon the advice of Green's lawyers that he might thereby escape Massachusetts taxation on the yacht (R. 42).

Yacht stayed all winter with entire crew: Bennett, Ev. 6787-8; D. 320; going to New London over April 1st, Bennett, Ev. 6784; D. 319; to escape taxes, letters between Duff, Green and Pierson, Mass. Exs. 78 (Ev. 5104; D. 216), 79 (Ev. 5106; D. 216), 79-A (Ev. 5107; D. 216), 80 (Ev. 5112; D. 217); and letter Green to Prescott, Mass. Ex. 81 (Ev. 5114; D. 217).

29. Beginning July 1, 1919, Green with his wife and several wards resumed the same life as the year before, living on the "United States," which was anchored near Round Hills. In August, 1919, the yacht went aground in Padanaram Harbor and sank, which was the end of its career. Green with his wife and guests then went to the Tabitha Inn at Fairhaven, a nearby town, where they lived until he acquired a houseboat, the "Day Dream," and took up his living quarters on that (R. 29). While living at the Inn, Green motored to South Wharf every morning, took his lunch and sometimes dinner on one of his small boats, the "Lydia." The construction of Round Hills House began early in the summer. Green and his party went ashore to attend the ceremony at which Mrs. Green turned the first spadeful of earth (R. 35). Green's time was principally occupied in attending to the construction of the house, a large building for housing farm employees, the greenhouses and a machine shop (R. 35) and other improvements at South Wharf (R. 36). In that year he was granted a license for the construction and maintenance of a marine railway in the harbor. He contracted with an interior decorator for furnishing Round Hills House with specially made furniture, and ordered 2000 rambler rose bushes to plant along his border fences (R. 36).

Time: see Table B and supporting references to Evidence attached to Massachusetts Requests to Find.

Several wards: Stafford, Ev. 4972-5; D. 208; see Mass. Ex. 88 (Ev. 5240-5; D. 233) in which Green subscribed for tennis privileges for Ruth Lawrence and other guests; Briggs, Ev. 6764-5; D. 318; Marshall, Ev. 5400; D. 244-5; Corley girls were often there, Corley, Ev. 356; D. 15; and their father was there when the yacht sank, Corley, Ev. 936.

Greens and their party went to Fairhaven: see Table B and supporting references to Evidence attached to Massachusetts Requests to Find.

Day Dream was purchased in September, 1919, Bennett, Ev. 6787-8; D. 320; Fla. Ex. 3 (Ev. 3491; D. 150).

Green's routine: Bennett, Ev. 6787-8; D. 329; Berglund, Ev. 5669-70; D. 257.

Ceremony of starting foundation for Round Hills House: Berglund, Ev. 5669-70; D. 257; Harris, Ev. 6627-8; D. 310.

Green's time occupied with construction, etc.: Sullivan, Ev. 7561; D. 334; Harris, Ev. 6628; D. 310; see also references under paragraphs 10, 11 and 16, *supra*.

In 1920 Green, with his wife, Mrs. Stafford and
l of his wards, lived on the houseboat "Day Dream"
, 35), moored off South Wharf. The "Day Dream"
sailed beyond Cuttyhunk Island, a few miles distant
Round Hills. Green went ashore daily, motored to
edford to do his shopping and to Round Hills where
nded to the construction of the Round Hills House
), going over the completed portions and going up
wn the temporary stairways, giving his attention to
allest details. He went weekly by the Fall River
New York as before, but attended no directors' meet-
re after July 1st.

Persons on board Day Dream: Stafford, Ev. 4969-75; D. 208.

Day Dream moored off South Wharf: Berglund, Ev. 5672; D. 258; only one trip to Cuttyhunk, Bennett, Ev. 6801.

Green went ashore daily: Berglund, Ev. 5673; D. 258; motored to Bedford, Berglund, Ev. 5673; D. 258; attended construction at Round Hills, Berglund, Ev. 5673; D. 258; Stafford, Ev. 4970-1; D. 208; Sullivan, Ev. 7561; D. 334; used temporary stairways, Sullivan, Ev. 2; D. 336.

Weekly trips to New York but no directors' meetings: see Table B supporting references to Evidence attached to Massachusetts Requests to Find and N.Y. Ex. 14 (Ev. 3617-18; D. 157).

e First Year in the Round Hills House (1921).

ly 1, 1921, Green and his wife, Mrs. Stafford and
f his wards, who were there during their summer

vacation, entered into occupancy of the completed home (R. 35, 38). Green had disposed of most of his flotilla (R. 38), retaining the "Lydia." His attention this year was devoted chiefly to completing the development of his properties. As before, he made his weekly trips by the Fall River boat to New York and return, attending directors' meetings there (R. 39). He left late in October for his usual fall trip to Texas.

Occupied house July 1, 1921: Berglund, Ev. 5674-5; D. 258; Stafford, Ev. 4976-8; D. 208; Sullivan, Ev. 7560; D. 330; Harris, Ev. 6632; D. 310.

Lydia retained: Bennett, Ev. 6807; D. 320.

Completing developments: Harris, Ev. 6629-33; D. 310; Sullivan still there, Ev. 7629; and payments still being made to Bossom, Mass. Ex. 411 (Ev. 5822; D. 267); bathing pier license, Mass. Ex. 382 (Ev. 6276; D. 293); and payments still being made to Taylor, Mass. Ex. 411 (Ev. 5827; D. 267); also payment to Roarke, *id.*, who was the road-builder—see Mass. Ex. 123 (Ev. 5263-4; D. 234); farm and greenhouses, Neyland, Ev. 6706.

Trips to New York and Texas: see Table B and supporting references to Evidence attached to Massachusetts Requests to Find.

(*c*) *The Years from 1922 to 1932.*

32. Beginning in 1922 Green's physical activities were circumscribed owing to the arthritis he had developed in Texas the previous October. While he could still walk short distances he was for the most part obliged to rely upon his wheelchair and automobiles to get about. He procured a small electric motor-car, hand-operated, familiarly called the "Cream-Puff," and in this drove himself, often with his Boston terrier "Stella," all over the estate, and sometimes beyond its confines. It was fitted up with a shelf upon which he could place his collections, picture puzzles, books and papers. In November, 1924, Green bought a small closed electric car, with heating equipment, so that he could be comfortable in cold weather (R. 39). Some of the buildings on the estate were equipped with inclined driveways so that Green could drive in and out. He used these cars in all kinds of weather, and by means of them was

able to spend most of his time outdoors and give attention to the numerous activities on the Round Hills estate (R. 39).

Arthritis developed in October, 1921: see paragraph 13, *supra*; walked thereafter with difficulty but relied mostly on wheelchairs and automobiles, Berglund, Ev. 5700-1, 5758-60; D. 260, 263; Stafford, Ev. 4983-5; D. 208; Neyland, Ev. 6653; D. 312; Pascal, Ev. 4165-7; D. 166-7.

Small open electric car in which Green drove himself around the estate: photographs, Mass. Exs. 393 and 408 (D. 208, 245); bought in 1922, Newington, Ev. 2740-2; D. 90; photograph, Mass. Ex. 403 (D. 245); Bowles, Ev. 6833-4; D. 322; drove around the estate, Stafford, Ev. 4983-5; D. 208.

Closed electric car with heater: photographs, Mass. Exs. 400 and 401 (D. 245); bought in 1924 and contained heater, Marshall memo., Mass. Ex. 172 (Ev. 5283; D. 236).

Stella the dog: photograph, Mass. Ex. 408; D. 245; Stephenson, Ev. 6312-13; D. 295.

Entered buildings on ramps: Odiorne, Ev. 6503; D. 304; Bowles, Ev. 6845; D. 323; Hill, Ev. 6917; D. 327; view of swimming pool ramp, and see Berglund, Ev. 5708; D. 260.

Went out in all kinds of weather: Carlson, Ev. 5882-3; D. 270; Hill, Ev. 6903; D. 327; Marshall's memo. on car with heater, *supra*, Mass. Ex. 172 (Ev. 5283; D. 236).

33. At Round Hills, as elsewhere, Green did not go into ociety. When he first went to Round Hills, many of the esidents of the fashionable summer colonies at Nonquitt nd Salters Point called on him, but he never returned the alls and was indifferent to their society (R. 39). In fact, is relations with them became strained, because they ob- ected to the noise of the radio loud speakers on his estate, e airplanes which came and went from his landing field, nd the influx of the thousands of people to bathe at his eaches, visit the whaling vessels and admire his grounds R. 39-40). Green's guests at Round Hills House were nited for the most part to his wards, of whom there were sually several present during the school vacation periods, ew New Bedford friends who infrequently came to dinner the house, and occasional visitors from among his old ends in Texas. Few of his New Bedford friends ever nt into the house, and they customarily met him in his tor-car on the grounds. Green enjoyed hobnobbing with employees and the local tradespeople, who came outside

their shops to talk with him in his automobile on his daily trips to New Bedford. He always kept his grounds open to the public, who came in thousands to bathe and sun on his beaches, and to see the whaling ship "Charles W. Morgan." Green enjoyed talking with these visitors and watching the bathers on his beaches. He was generally popular with the common people of the vicinity. He made his grounds and boats available for outings for crippled children, and furnished motor-bus transportation the year round for girls attending the public schools in the neighborhood (R. 39).

Relations with summer colonists: Marshall, Ev. 5632-4; D. 256; letter to Mrs. Brooke, Mass. Ex. 225 (Ev. 5298-5309; D. 237), as to which see Marshall, Ev. 5630; D. 255.

Friends were among local residents of New Bedford: Marshall, Ev. 5631-2; D. 256; Bartlett, Ev. 4810-3; D. 195; did not go into the house much, but met him on the grounds, Ashley, Ev. 6459-60; D. 302; and wards, Marshall, Ev. 5400-1; D. 244; Stephenson, Ev. 6309-11, 6314, 6321-2; D. 294, 295; Berglund, Ev. 4990; D. 209.

Outings for crippled children: Hill, Ev. 6894-5; D. 326; Mass. Exs. 212 (Ev. 6087-90; D. 281), 443 and 444 (Ev. 7487-90; D. 330); Mass. Ex. 345 (Ev. 6196-7; D. 290).

School bus: Hill, Ev. 6896-8; D. 326; and Mass. Ex. 433 (photograph) (D. 326).

34. His daily routine was to have coffee served to him at 7 and to take breakfast at 9, either downstairs with his wards or alone in his room; motor to New Bedford on a shopping tour or go out on his estate, take lunch either alone or with his family, spend the afternoon watching the manifold activities which were always going on on his estate, dine with his family in the evening, spend a short time after dinner in conversation, showing moving pictures or playing the nickel slot machines (R. 39), then retire to his room, usually with his attendant Gerda Larson (later Mrs. Berglund) or one of his wards, and work late into the night or early morning on his stamp or numismatic collection (R. 39). His attendant gave him massages morning and night, and assisted him in dressing and undressing.

Daytime routine: coffee and breakfast, Carlson, Ev. 5858-9; D. 268; Stephenson, Ev. 6310-11; D. 294; Berglund, Ev. 5785-6; motor to New

Bedford shopping, Berglund, Ev. 5721-2; D. 262; Stephenson, Ev. 6307-8, 6311-12, 6318; D. 294-5; or go out on estate, Berglund, Ev. 5700, 5776-7; D. 260, 263; Marshall, Ev. 5403-4; D. 245; Carlson, Ev. 5869; D. 270.

Evening routine: dinner, and slot machines, Stephenson, Ev. 6314-15; D. 295; movies, Berglund, Ev. 5706-7; D. 260; retire and work late on collections, Stephenson, Ev. 6315-17; D. 295; Berglund, Ev. 5715; D. 261; massages and assistance, Berglund, Ev. 5758-60; D. 263.

35. Green during this period never used alcohol in any ɔrm, but was addicted to the excessive use of bromo-seltzer R. 43), which, despite precautions taken by his family and tendant, he succeeded in obtaining. Occasionally this sulted in extreme anaemia requiring blood transfusions to store him to health. Aside from the acute illnesses so used, Green's general health remained good, although ere was a gradual physical deterioration. He developed rheumatic condition, which the fog and dampness at ɔund Hills tended to aggravate, but despite his doctor's vice that he ought not to remain there so late in the year always insisted on staying into December, except on four asions in the last fourteen years when illness required ı to leave earlier (R. 43).

Used no alcohol but took bromo-seltzer to excess: Berglund, Ev. 5704-5; D. 260; Pascal, Ev. 4170-3; D. 167; Odiorne, Ev. 6505; D. 305; despite precautions, Stephenson, Ev. 6311-12; D. 294; Berglund, Ev. 5697-5700, 5764, 5782-5; D. 259, 263-4; necessitated blood transfusions, Pascal, Ev. 4170; D. 167; but general health remained good, Pascal, Ev. 4170-1; D. 167; Berglund, Ev. 5696; D. 259.

Round Hills climate not good for Green: Pascal, Ev. 4168-9, 4177-8; D. 167; kept coming back and staying late despite doctors' advice, Bowles, Ev. 6846-7; D. 324.

Stayed there into December ten years of the last fourteen, see Tables A and B and supporting references to Evidence attached to Massachusetts Requests to Find. In 1923 he left in November to receive medical treatment in New York for balance of year, Pascal, Ev. 4145; D. 165; in 1930 and 1932, ordered out of climate, Pascal, Ev. 4167-8, 4176-7, 4177-8; D. 167; letters from Green, Mass. Exs. 298 and 299 (Ev. 6160-1; D. 286-7); Texas Ex. 12 (Ev. 883; D. 40); Fla. Ex. 336 (Ev. 9402; D. 389); Fla. Ex. 352 (Ev. 9484; D. 395). In 1935 Green was very sick and nearing final collapse (see references under paragraph 36, *infra*).

) *The Years from 1932 to 1935.*

In September, 1932, Green had a serious illness hich a cardiac condition developed, requiring his de-

parture in October for Lake Placid. From this time Green's health declined steadily. He no longer went about by himself in the small cars, but was driven about by his chauffeur in a glass-topped automobile. He continued his daily shopping tours in New Bedford and still spent much time outdoors going over his estate, visiting the various activities there, usually accompanied by the last of his wards, then in her early teens. In 1935 he was a very sick man and was approaching his final collapse. So far as he was able, he continued about the same activities as theretofore, but was more and more confined to the house. Although his personal participation in the activities on the Round Hills estate was necessarily curtailed, his interest in them continued undiminished up to his death (R. 43).

Myocarditis in 1932: Pascal, Ev. 4172-3; D. 167; doctor advised leaving South Dartmouth to go to Lake Placid, Pascal, Ev. 4168-9; D. 167; steady decline, Bowles, Ev. 6844-4; D. 323; Stephenson, Ev. 6341-2; Vander, Ev. 7139-43. Discontinued driving himself, Berglund, Ev. 5751-57; D. 263 [but the date 1926 is too early, as shown by Mass. Ex. 403; D. 245] (photograph of Green in small electric, with the dirigible which came in 1929), as to which see Mass. Ex. 437 at Ev. 7018; D. 329; Green bought his big gas-electric car in November, 1929, Texas Ex. 343-D (Ev. 6958; D. 327-4).

Automobile with glass top: see last reference under paragraph 25, captioned "1936."

Continued going to New Bedford and around the estate: Stephenson, Ex. 6309-14; D. 294; Hill, Ex. 6905-4; D. 327; Vander, Ev. 7138-40.

Approaching final collapse in 1935: Not so bad in 1934, Graber, Ev. 8879-80; D. 375; but worse and more irritable in his last year at Round Hills, Graber, Ev. 8881; D. 377; and after he arrived in Florida late in 1935, he spent much of his time in bed and was at times under an oxygen tent, Roche, Ev. 7360-4, 7353-4, 7334; D. 107-8.

Interest in activities at Round Hills continued undiminished, though his personal participation was curtailed: Marshall, Ev. 5090; D. 254; Ballard, Ev. 7025-6; continued to supply facilities costing him, through contributions to Round Hills Radio Corporation, $101,731.32 from 1934 to the time of his death, Mass. Ex. 410-A (Ev. 5811; D. 265-7; Bowles, Ev. 6846-7; D. 324. It is clear that Green financed these facilities through the Corporation: minutes, Mass. Ex. 437 (Ev. 7016-23; D. 329); Ballard, Ev. 7025; Potter, Ev. 5815-16; D. 267-6.

(c) Green's interests at Round Hills.

37. Farming and horticulture engaged Green's attention, as formerly in Texas. He employed between thirty

eight and forty farm-hands, of whom twenty-two stayed the year round, put 150 acres under cultivation, and had three barns, with dairy and poultry farms. He raised goats for his amusement and had a great number and variety of fowl. He supplied the house and his employees with the products of the farm, but did not run it for profit. He had two large greenhouses from which fresh flowers were furnished every day for the house (R. 39). There were spacious lawns and roads through the wooded areas. Thousands of rambler roses bordered the property (R. 20, 36). He became a member of the Massachusetts Horticultural Society, which was the only society of that type of which he was a member, and had his framed membership certificate hung in his study at Round Hills. Sometimes in official documents he described his occupation as "Farmer."

Green's interest in the farm continued until his death. Neyland, Ev. 6744; D. 317; farm lands, dairy, etc., Tallouch, Ev. 7093-5; D. 346; buildings, Mass. Ex. 412 (photographs) (D. 268); goats, Stephenson, Ev. 6312-13; D. 295; variety of fowl, Ely., Ex. 366 (Ev. 9559-61; D. 398); no profit, Tallouch, Ev. 7095; D. 349; Marshall, Ev. 5474-7; D. 248; fresh flowers every day, Hill, Ev. 6903; D. 327.

Described himself as "Farmer," Texas Exs. 343 to 343-I. (Ev. 6923, line 19; D. 327; other application abbreviated in the record—see reporter's note, Ev. 6931; D. 327).

38. For several years Green maintained a photographic laboratory at Round Hills (R. 40). While he was interested more in the scientific than the artistic aspects of photography (R. 19), he had innumerable pictures made of the whaleship "Charles W. Morgan" from almost every angle, and distributed them by the hundreds. He also distributed large photographs of himself taken at Round Hills, and had moving pictures taken of him and his activities there (R. 40).

Studio, Ottorno, Ev. 6496-6502; D. 304; moving pictures, Hill, Ev. 6943; D. 326; Dixon, Ev. 7071-80; D. 337.

39. Early in 1922 Green, having become interested in radio, formed "Round Hills Radio Corporation" (R. 19,

40), of which he always kept entire control, and employed the Western Electric Company to construct two broadcasting stations at Round Hills, one with a hundred-watt broadcasting set, and the other, a five-hundred-watt set. In 1925 he added a thousand-watt transmitter (R. 40). The largest station contained besides the studio an apparatus room, a spacious reception hall, station manager's office and artists' retiring rooms. It had two steel towers 143 feet high. Green's original intention was to bring singers and musicians to the studio, but the difficulty of getting worth while programs in this way led him to arrange with the American Telephone & Telegraph Company to transmit programs from New York stations WEAF and WGBS by direct wire, and these were broadcast locally from Round Hills, the first program being transmitted July 1, 1923. This station, WMAF, or "The Voice from Way Down East," was the most powerful in New England. Green published and distributed a pamphlet entitled "The Voice from Way Down East," containing his picture and describing the station. In this pamphlet Green caused himself to be described as descended from John Howland, a cabin boy on the "Mayflower," to whom the Round Hills tract had been allotted (R. 19, 40). Green had a group of loud speakers mounted on the water tank at Round Hills Point and at his invitation the public came by thousands to hear the concerts (R. 40), news items, baseball games and prize fight broadcasts which were put on the loud speakers. He attempted to make the loud speakers carry programs to his friends on steamers plying between New York and New Bedford, but was unsuccessful. At the end of the 1927 season, when broadcasting became commonplace, Green lost his interest in this phase of radio and discontinued broadcasting, devoting his facilities to other fields of experimentation in radio and allied sciences (R. 40).

D. 329; Arst control as President and Treasurer, clerk's certificate, Ex. 7024; D. 329; and see minutes, Mass. Ex. 437 (Ex. 7014-24; D. 329); see also contributions, Mass. Ex. 410A (Ex. 5810-11; D. 264).

Description of radio: see "The Voice From Way Down East," Mass. Ex. 48 (Ex. 3750-8; D. 163); contract, Mass. Ex. 49 (Ex. 3774-9; D. 164); added thousand-watt transmitter in 1925, Mass. Ex. 199 (Ex. 6078-8; D. 280); "worthwhile progress," Bowles, Ex. 6828; D. 321; Woods, see minutes, Mass. Ex. 437 (Ex. 7014; D. 329).

Opened grounds to public, who attended loud-speaker concerts in large numbers: Neyland, Ex. 6857-8; D. 312; Price, Ex. 3734-5; D. 162; type of programs, Mass. Ex. 48 (Ex. 3768-9; D. 163); N.Y. Ex. 18 (Ex. 3786; D. 164); Mass. Ex. 143 (Ex. 6024; D. 276); volume would not carry to boats, Price, Ex. 3722, 3783; D. 161, 164.

Broadcasting continued through 1927: minutes, Mass. Ex. 437 (Ex. 7014-18; D. 329); when it became commonplace Green turned to experimenting with radio as an aid to aviation (see paragraph 41 and references, infra).

46. Green's interest had in 1927 turned to aviation and the use of the radio in connection with navigation in the air and at sea (R. 40). Through his friendship with President Stratton of the Massachusetts Institute of Technology Green had already arranged to place his radio facilities at the disposal of a unit of teachers and students from the Institute (called the "Round Hills Research Division") (R. 29, 40), for experimentation involving radio communication between the ground and air, direction finding, and the transmission of radio beams for the guidance of aviators. In connection with this project Green began in 1927 to construct on his grounds at Round Hills a fully equipped airport with facilities for hydro-aeroplanes as well as land-planes. He obtained a license in 1927 to dredge in Buzzards Bay and to fill solid the tidal tributaries on his property, so as to obtain a dry, level field. In 1927 and 1928 Green was principally engaged in this dredging and filling. In 1929 he constructed an airplane hangar and runway for airplanes, and a launchway extending 240 feet into the bay for seaplanes, and continued his work of filling and grading. In conjunction with the Massachusetts Institute of Technology, Green arranged to have the Goodyear Tire & Rubber Company supply blimps from time to time for research work and in 1929 built a blimp-dock in which to house them.

The airport contained the best equipment that could be obtained and had an A-1 rating with the United States Government. There was no charge for landing on the field, and facilities, including fuel and repairs, were furnished at less than prevailing prices. The number of planes using the field varied from 150 to 250 a year. Green employed a superintendent of the airport and established a school for aviators under this superintendent's direction, run on a cost basis (R. 40). At one time there were forty-two students in the school. Green himself went up in one of the blimps in 1930. The following year Green gave a reception on the field to Russell Boardman and John Polando who had just returned from breaking the world's distance record with a flight from New York to Istanbul, Turkey. On one occasion he had an airplane meet in the blimp dock for children at which he gave prizes. In 1929 he purchased a flying boat named "Miami Maid" for his wife and kept it on the Round Hills field (R. 40). Mrs. Green and some of the wards and friends made flights in it. Green developed a considerable knowledge of aeronautics, read books on the subject and could talk intelligently with mechanics in their own language (R. 40). It was his custom to visit the airport every afternoon for an hour or so talking over the equipment with the superintendent and talking with the aviators who landed. Round Hills Airport was maintained in first-class condition until Green's death (R. 40).

Aviation: building airport in July, 1927, Mass. Ex. 224 (Ev. 6092; D. 281); use of radio in connection therewith, Bowles, Ev. 6825-6, 6837, 6854; D. 321, 322, 324; Marshall, Ev. 5401; D. 245; Mass. Ex. 437 (Ev. 7016-18; D. 329); direction finding, Price, Ev. 3769; D. 163; nature of airport, Green's letter to Mrs. Brooke, Mass. Ex. 225 (Ev. 5303-9; D. 287); as to which see Marshall, Ev. 5630; D. 255; seaplanes and land planes, Taylor, Ev. 6967-70; D. 328; license to dredge, etc., Mass. Ex. 387 (Ev. 6260; D. 293); Green engaged in supervising work, Mass. Ex. 32 (Ev. 1255-6); launchway hangar and blimp dock in 1929, Mass. Ex. 390 (Ev. 6287-6300; D. 294) and Taylor, Ev. 6969; D. 328; Goodyear blimp, Hill, Ev. 6802-3; D. 326; Bowles, Ev. 6833-4; D. 322; and minutes of radio corporation, Mass. Ex. 437 (Ev. 7018; D. 329); best equipment, Hill, Ev. 6887-8; D. 325; airport and school operated at cost, Hill, Ev. 6887-91, 6912-13; D. 325, 327; Green went up in blimp, Hill, Ev. 6893; D. 326; Boardman and Polando reception, minutes,

Mass. Ex. 437 (Ev. 7019; D. 329); children's airplane meet, Hill, Ev. 6896; D. 326; "Miami Maid," Hill, Ev. 6892-3; D. 326; aunt sales contract, Mass. Ex. 266 (Ev. 6123; D. 2851); Green read up on subject, Hill, Ev. 6898; D. 326; daily visit, etc., Hill, Ev. 6894, 6891-2 and 6887; D. 325-6.

41. Round Hills Research Division of the Massachusetts Institute of Technology had its inception in 1925 (R. 40). Green provided the students and instructors with living quarters, laboratories and the smaller radio station on the estate, and in 1926 started collaborating with them on a series of experiments which continued until his death. Beginning with the study of the use of radio as an aid to navigation, studies were also made in the scattering of light through fog, and in measuring the intensity of sound. These experiments in turn led to experiments in the dissipation of fog as an aid to air navigation (R. 40). These experiments were successful to the point of clearing fog in an area about 3000 feet long, 150 feet wide and 70 feet high, which gave a sufficient channel over the Round Hills airport to enable the pilot to see the field while landing. In 1931 experiments were begun with a high voltage generator for the disintegration or "smashing" of the atom. Green took a personal interest in these experiments. Until the fall of 1932 it was his custom to drive into the workshops and watch the experiments being conducted (R. 40-1), and after his illness that fall he continued to consult with the professor in charge of the unit. Green continued to preside at the annual meetings of the Round Hills Radio Corporation and presented reports as to the progress of the work through 1935. On November 23, 1935, he joined with the Massachusetts Institute of Technology in issuing a formal invitation to visit the research laboratories at Round Hills. He was particularly interested in the practical usefulness of his radio station in cases of emergency, such as the Vermont flood (November 4, 1927), when relief work was directed from Round Hills station; the sinking of the Vestris (November 12,

1928), when the station aided in the rescue work; the signalling to the Graf Zeppelin on its maiden voyage (October, 1928), and the continuous contact maintained with Admiral Byrd on his first Antarctic expedition (1926-1927) (R. 41). He took the keenest interest in the experiments in fog dissipation. Certain parts of the program were carried on in collaboration with the United States Department of Air Commerce and the Army and Navy (R. 41), and Green was supplied with confidential reports of their experiments which he followed with close attention. As Green's interest in the scope of the work increased, he placed more and more facilities at the disposal of the Round Hills Division. These facilities, including the airport and radio stations, cost Green upwards of $1,250,000 between 1925 and 1933, in addition to which he made direct gifts of money to the Massachusetts Institute of Technology amounting to $140,000 in the same period. After 1933, the decrease in Green's income led him to stop making direct cash contributions to the Institute, but he continued to supply facilities to the Round Hills Division at a cost of over $100,000 (R. 41).

Inception in 1925: Bowles, Ex. 6825-6; D. 321; living quarters and facilities, Marshall, Ex. 5471-2; D. 248; Bowles, Ex. 6827; D. 321.

Experimental work started in 1926 and continued throughout Green's life: Bowles, Ex. 6832-5, 6837, 6842, 6850; D. 322-4; Marshall, Ex. 5500; D. 254; minutes of R. H. Radio Corp., Mass. Ex. 437 (*supra*; D. 329); invitation to inspect, Mass. Ex. 353 (Ex. 6203; D. 291); and Bowles, Ex. 6847; D. 324.

Nature of experiments: Bowles, Ex. 6836-42; D. 322-3.

Green took a personal interest in them: Bowles, Ex. 6845; D. 323; Marshall, Ex. 5506; D. 254; minutes, Mass. Ex. 437 (*supra*).

Visited hangar and laboratories: Bowles, Ex. 6845; D. 323; Green continued his contact with Bowles, Ex. 6838-9; D. 322; and kept apprised of developments, Bowles, Ex. 6842; D. 323; minutes of R. H. Radio Corp., Mass. Ex. 437 (Ex. 7419-24; D. 329); invitation to visit, Mass. Ex. 353 (Ex. 6203-6; D. 291) and Bowles, Ex. 6847; D. 324.

Green interested in practical usefulness: Bowles, Ex. 6837-8; D. 322 (as to which he must have confused the "Hindenburg" with the "Graf Zeppelin," as the first flight of the "Hindenburg" was not made until about the time of Green's death); most impressed with fog dissipation, Bowles, Ex. 6840-1; D. 323; collaboration with U.S. departments, etc., Bowles, Ex. 6842; D. 323.

Furnished facilities: radio, airport, machine shop, power, water and cables, Bowles, Ex. 6827-37; D. 321-2; cost to Green, 1925-1933, $1,287,922.31, Mass. Ex. 410-A (Ex. 5810-1; D. 265). It is clear that Green's contributions to this corporation financed the facilities used in this work, and do not include all of the original cost to Green, Potter, Ex. 5806-7, 5815-16; D. 264; minutes, Mass. Ex. 437 (Ex. 7016-23); Bullard, Ex. 7025. Donations to M.I.T. during same period, $140,000, Mass. Ex. 59-A (Ex. 3427-7; D. 143); after 1933, cost to Green supplying radio, airport and allied facilities, $101,731.32, Mass. Ex. 410-A (Ex. 5811; D. 265-6).

42. Early in his development of Round Hills Green became vitally interested in the history and antiquities associated with New Bedford and its whaling industry, in which his forebears had prominently figured (R. 41), and in the tradition of Round Hills, which had belonged to his family for so many generations. He took great pride in his New England lineage and the prominence of his ancestors in the whaling industry, and came to feel himself indigenous to the locality. This feeling manifested itself in numerous activities at Round Hills.

1915 joined New England Historic Genealogical Society, Mass. Ex. 83 (Ex. 5900-2; D. 271); 1920 established memorial there to his mother, Mass. Ex. 99 (Ex. 5954-5; D. 272); 1921 or 1922, commissioned Emery to write articles, Emery, Ex. 6585-3; D. 298; whaling industry, "Morgan," etc., Mass. Ex. 153 (Ex. 6033-5; D. 277); Moreland, Ex. 6749, 6654-5; D. 317, 312; Gosnold, Mass. Ex. 175 (Ex. 6052-3; D. 279); Pilgrim Fathers, Mass. Ex. 48 (Ex. 3758-61; D. 163); letter to Stern in 1924, Mass. Ex. 148 (Ex. 5278-80; D. 235); and see references for paragraphs 43 to 46, inclusive.

Felt indigenous to the locality: "our good old town," Mass. Ex. 222 (Ex. 5296-7; D. 237); dedication speech, Mass. Exs. 400 and 470 (Ex. 9733-8; D. 407); "* * * New England had to start this country and *we eventually* got down to where you live. * * *" letter of October 25, 1935, from Green to Buie, Texas Ex. 9 (Ex. 861; D. 38); joined Lantern League, Old North Church, July 1935, Mass. Ex. 351 (Ex. 6201; D. 290).

43. In 1924 it was brought to Green's attention that an d whaling ship, the "Charles W. Morgan," which at one me had belonged to some of his ancestors (R. 41), was to be dowed by a group of New Bedford citizens and presented the City, as a memorial to whaling. A contribution havg been sought from Green, he asked leave to purchase the ip himself, and when this was denied, an arrangement was de with him through which the ship was transferred to a

charitable corporation, Whaling Enshrined, Inc. (R. 41), of which Green was a life member, trustee and president, to which corporation Green conveyed, in October 1925, part of his shore land. The ship was berthed in a concrete cofferdam on the beach (R. 41), rigged and equipped as if it were in dock after a voyage. Green was president and trustee of Whaling Enshrined until his death, and donated about $10,000 annually to maintain it and its crew, consisting of a captain, mate and nine sailors (R. 41), who were on duty six months a year. He made a collection of flags which had formerly been used as signals of the New Bedford fleet, and established and rigidly maintained a schedule according to which these flags were flown from the ship, and on anniversary days he had all of them displayed. The ship was open to the public without charge, and signs directing the public to it were posted along the highways from New Bedford. It became a veritable mecca for tourists. About 125,000 people visited it yearly (R. 41), and in ten years over 1,250,000 visited it. At its dedication, July 21, 1926, Green delivered an address, published in the local press, concluding with the words "He will remain for the balance of his time on earth, in our home at Round Hills. Charles W. Morgan, we welcome you home!"

History of "Whaling Enshrined": Neyland, Ev. 6654-62; D. 312-13; certificate of incorporation, Mass. Ex. 391 (Ev. 6300-2; D. 294); life member unless he should "move away permanently," Mass. Ex. 364 (Ev. 6216-8; D. 295); Green Trustee and President until his death, Ashley, Ev. 6465; D. 303; Neyland, Ev. 6678-8; D. 314; conveyance of land to "Whaling Enshrined," McLeod, Ev. 6567-9; D. 297; rigging and equipment, Neyland, Ev. 6672, 6683-4, 6709-12; D. 313, 314, 315; Mass. Ex. 192 (Ev. 6070; D. 279); annual donations, Mass. Ex. 60 (Ev. 3446-7; D. 147); captain and crew, Marshall, Ev. 5407; D. 245; signal flags and rules for flying them, Pltf. Ex. 356 (Ev. 9517-18; D. 466); Neyland, Ev. 6728-9; D. 316; Mass. Ex. 160 (Ev. 6040; D. 278).

Open to the public without charge: Marshall, Ev. 5407; D. 245; visitors, Mass. Ex. 373 (Ev. 5404-6; D. 245).

Dedication address: Mass. Exs. 400 and 470 (Ev. 9733-8; D. 467).

44. In connection with the whaleship "Morgan" it was originally Green's intention to construct in its immediate

vicinity a small whaling village and museum (R. 41). In December, 1924, he salvaged the mast of the wrecked whale ship "Wanderer" and set it up at Round Hills. In 1924 and 1925 he laid the foundation of a museum close to the "Morgan," but shortly afterward filled it in and never completed that project (R. 41). In the years 1925-1927, however, he purchased an old blacksmith shop and a candle works in New Bedford and had them moved to Round Hills and set up near the "Morgan." He also made a great collection of lithographs, paintings, numerous shipping and whaling prints, whales' teeth, scrimshaw work and photographs dealing with the whaling industry, besides acquiring an extensive historical and genealogical library. Apart from the whaling village, but in line with his interest in colonial history, he purchased in 1924 an old windmill in Rhode Island and had it set up at Round Hills (R. 36).

Whaling Village and Museum: Neyland, Ev. 6672, 6716-17; D. 313, 314; Taylor, Ev. 6967; D. 328; Fla. Exs. 355 (Ev. 9500-11; D. 396), 356 (Ev. 9517-19; D. 396), 357 (Ev. 9521-3; D. 396), 358 (Ev. 9530-1; D. 397), 359 (Ev. 9533-4; D. 397); collection of pictures, etc., Emery, Ev. 6805, 6835; D. 299, 301; library, see paragraph 45, *infra*; windmill, Emery, Ev. 6385-9; D. 293.

45. Green purchased and kept in his library at Round Hills House a costly and well-chosen collection of standard classical literature, in addition to which he had many volumes pertaining to the history and genealogy of New Bedford and Old Dartmouth, books of value as reference works in research into local history and genealogy and original editions of ancient books relating to the history of New England, published mostly in London. He chose particularly books dealing with whaling and with Gosnold's voyages, in one of which Gosnold landed at Round Hills in 1602. He had no special collection of books on any other subject with the exception of stamps and numismatics, more particularly he had no collections and only one or two isolated books relating to Texas or New York, and

none relating to Florida. Green gave a great deal of personal attention to the collection of these books, sought expert advice in selecting them and read widely in them, particularly those dealing with whaling, in which subject he became well versed. Green employed a local historian and genealogist to write monographs upon different subjects connected with Round Hills, including Gosnold's visit there in 1602, the history of Round Hills farm and its occupants and the history of the colonial windmill reconstructed upon the estate. This genealogist was the author of "The Howland Heirs," a book which Green prized as an interesting and authentic history of his mother's side of the family (R. 41).

Library: classics, see Mass. appraisal, Texas, Ex. 326 (Ev. 3867-89); histories of New Bedford, Dartmouth, etc., Mass. Ex. 418 (Ev. 6388-92; D. 299) and appraisal, Ev. 3855-66; see also letters between Green and book dealers and others, showing Green's personal attention to these subjects, and the cost, Mass. Exs. 155, 156 and 157 (Ev. 6035-7; D. 277-8); Mass. Exs. 161, 162, 163, 165 and 166 (Ev. 6041-4; D. 278); Mass. Exs. 174 and 175 (Ev. 6051-2; D. 279); Mass. Ex. 179 (Ev. 6057; D. 279); ancient books, Mass. Exs. 167 (Ev. 6044; D. 278) and 171 (Ev. 6048; D. 278); reference books on whaling, Mass. Exs. 170 (Ev. 6049; D. 278), 176 (Ev. 6053; D. 279), 177 (Ev. 6056; D. 279), 180 (Ev. 6059; D. 279), 182 and 183 (Ev. 6061-2; D. 279); and Fla. Ex. 360 (Ev. 9544-5; D. 397).

No similar collection with respect to any other State or section of the country: Emery, Ev. 6393-4; D. 299.

Discussed them and ordered monographs: Emery, Ev. 6387, 6393-4, 6384-6; D. 299; windmill, Emery, Ev. 6385-6; D. 299; "Howland Heirs," by Emery, Ev. 6416; D. 301; considered authentic by Green and prized by him, Carlson, Ev. 5860; D. 260; Emery, Ev. 6438; and, concerning his grandfather E. M. Robinson, see Mass. Exs. 322 and 322 A (Ev. 6181-8; D. 289).

46. Green in October 1924, upon his personal application, became a member of the Massachusetts Society of the Sons of the American Revolution, basing his claim to membership upon lineal descent from Colonel David Mosley of Westfield, Massachusetts. His certificate of membership in this Society was framed and hung in the Library of the Round Hills House. In 1925, he became a member, upon his personal application, of the Society of Colonial Wars in the Commonwealth of Massachusetts, basing his claim

to membership upon lineal descent from William Robinson, Deputy Governor of Rhode Island. In both of his applications for membership in these Societies, Green declared under oath that his residence was South Dartmouth, Massachusetts. Green placed a marble tablet to the memory of his mother in the rooms of the Massachusetts Historic Genealogical Society in Boston in 1920. Green never exhibited any interests similar to these in any part of the country other than in Massachusetts (R. 41).

Mass. Societies of S.A.R. and Colonial Wars, Mass. Exs. 367 and 369 (Ex. 6224-31; D. 2924); certificate in Library, see appraisal, Texas Ex. 326 (Ex. 3859-A) and Emery, Ex. 6407; D. 3007; marble tablet, Mass. Ex. 99 (Ex. 5934-5; D. 272).

47. Green took great interest in the education of his wards. It was his desire that they should so far as possible attend Wellesley College in Massachusetts. He sent several of them there and to other colleges and preparatory schools in Massachusetts—Walnut Hill School, Wheaton College, House-in-the-Pines, Norton, Massachusetts, and [illegible]ton University. On December 17, 1923, Green and his sister entered into an agreement with Wellesley College to donate $500,000 for a building to be erected in memory of their mother. Green, as well as his sister, made his donations in annual instalments of $50,000 in the five following years. Over the same period, Green and his sister made a joint donation of $250,000, in memory of their mother, to St. Mary's School, an Episcopal Convent School in Peekskill, New York, where one of his wards was educated (R. 20). Green's mother was a member of the Episcopal Church.

Preference for Massachusetts institutions: Wellesley, Briggs, Ex. 6765-6; D. 318; telegram, Mass. Ex. 2-A (Ex. 6114-15; D. 2843); Sullivan, Ex. 7580; D. 3353 and others, Marshall; Ex. 5302-8; D. 244; Stevenson, Ex. 6369, 6321; D. 293, 295; letter to Dorothy Marshall recommending eastern schools, Mass. Ex. 126 (Ex. 5268-71; D. 235).

Donations to Wellesley and St. Mary's: Mass. Exs. 59-A and 59-B (Ex. 3425-9; D. 1453); agreement with Wellesley, Mass. Ex. 93 (Ex. 7473; D. 1429) and with St. Mary's, N.Y. Ex. 41 (Ex. 2240; D. 1313); Mrs. Hetty Green on Episcopalian, N.Y. Ex. 224 (Ex. 7700-1; D. 1961).

48. In the last two years of his life, Green's physical activities at Round Hills, as elsewhere, became more restricted and he was confined more to indoor occupations. He had given up stamp collecting in 1927 (R. 33), but in 1935 he started a new Twentieth Century collection which, with his coin, currency and jewel collections and his jigsaw puzzles, occupied most of his time when he was confined to his room (R. 47, 21). Green was a very sick man the year before he died, but his chief interests were still in the scientific and historical projects that he sponsored at Round Hills and at Round Hills alone.

Green's illness restricted activities: see references under paragraph 36, *supra*.

Gave up stamps in 1927: letter, Green to Warburton, Mass. Ex. 342 (Ex. 5323-5; D. 230); Potter, Ex. 5381; D. 157; Marshall, Ex. 5387-7; D. 243.

Started new Twentieth Century collection in 1935: Marshall, Ex. 5387-3; D. 243; Potter, Ex. 5381; D. 157; letter to Newman, N.Y., Ex. 80 (Ex. 5340-3; D. 151-5).

Other collections: coins, Mass. Ex. 342, *supra* (Ex. 5323-5; D. 230); currency, Keyes, Ex. 7088-9; D. 347; jewels, Marshall, Ex. 5531-3; 5387-5504, 5504-5; D. 250, 253, 256; worked mostly on stamps and coins, Stevenson, Ex. 6315-18; D. 296); read philatelic and numismatic publications, Carlson, Ex. 5803, 5807-9; D. 269, 270; Mass. Exs. 311 and 312 (Ex. 6178-4, 5331-3; D. 288, 289); jig-saw puzzles, left for $118.03 worth, Mass. Ex. 311 (Ex. 5325-6; D. 230).

Continued interest in scientific and historical projects at Round Hills: scientific, see references under paragraph 36, *supra*; farm, Neyland, Ex. 6744; D. 317; historical, Neyland, Ex. 6745-6; D. 317.

Taxes in Massachusetts.

49. In Massachusetts there has been in force since 1917 a personal income tax at very high rates upon income from investments. The statute provided from that time until it was amended in 1929 that every person who was "an inhabitant of the commonwealth at any time between the first day of January and the thirtieth day of June, both inclusive, in any year" should make a return and pay the tax. The provisions of this statute were called to Green's attention by his attorney in January, 1930, at which time Green had live

ing quarters in Massachusetts in the form of the yacht "United States." Thereafter and until 1934 Green did not go into Massachusetts before July 1st in any year, habitually arriving early in the morning of that day, and did not stay there after the 18th of December in any year. He explained on many occasions that he adopted this practice in order to avoid liability for Massachusetts taxes. The Massachusetts statute was amended in 1929 eliminating the words "between the first day of January and the thirtieth day of June, both inclusive," and Green's attorneys so advised him. Thereafter in both 1934 and 1935 Green went to his home in Massachusetts in June, but did not remain there for as much as six months in either year. He stated on numerous occasions that he could not stay in Massachusetts as much as six months in any year on account of Massachusetts taxes.

Massachusetts income tax: Acts of 1916, c. 269, sec. 23; Acts of 1929, c. 361, sec. 2; amending and sec. 23; extract from General Laws, c. 62; Copied at Ex. 9590-9680; D. 300; called to Green's attention in January, 1916; Mass. Ex. 74; with which see Mass. Exs. 70 and 70-A thru 70-G; D. 215-161; amendment called to his attention in 1930; Mass. Exs. 287 and 288 (Exs. 5477-B, 5478-B); D. 225; Ballard, Ex. 7020-30; 7065; D. 329.

Green's [illegible] see Tables A and B and supporting references to Evidence; [illegible] Massachusetts Requests to Find; left on June [illegible] the morning of July 1st each year prior to 1934; Stafford, Ex. 4965-A; D. 297; Mass. Ex. 18; Ex. 515-2011; 1934 and 1935 arrived in June; see Tables A and B and supporting references to Evidence; Prince attached to Massachusetts Requests to Find; said his reason for all of the foregoing was to avoid taxes; Marshall, Ex. 5364-A; D. 242; Hoagland, Ex. 5709-10, 5765-6; D. 260, 263; Stafford, Ex. 4980-[illegible]; D. 293; and numerous other witnesses.

50. In 1928 the Massachusetts Commissioner of Corporations and Taxation personally interviewed Green at Round Hills on the question of Green's liability to income taxation as a resident of Massachusetts. Green replied that he had his legal residence at Terrell, Texas, and was not at that time prepared to file a return or pay income taxes to Massachusetts as a resident thereof (R. 424).

Long, Ex. 7078-79; D. 358-9.

51. Green at no time filed an income tax return or paid any income tax to Massachusetts (R. 21), and after this interview with the Massachusetts Commissioner he received no demand that he do so although one was sent to him shortly before his death (R. 42, 43).

No return filed, Potter, Ev. 3185; D. 126; demand in 1936, Long, Ev. 7065-6; D. 338.

52. In or about 1928 Green was tendered a nomination for Congressman by the local Republican leaders, but refused (R. 27) on the ground that the act of registering himself as a resident of Massachusetts would cost him a great deal more in taxes than the salary would be worth.

Winslow, Ev. 2725, 2729-30; D. 89.

Presence and Activities in Massachusetts Undiminished by Sojourns in Florida.

53. In the winter of 1923 Green for the first time went to Florida. Thereafter he developed the habit of going there for several months each winter and spring, living first on a boat and later in a house on Star Island at Miami Beach which he purchased and reconstructed. These trips to Florida did not diminish the amount of time which Green spent at Round Hills nor the activities pursued there. The trips were made in that portion of the year in which Green had formerly spent his time in New York and Texas, not in Massachusetts. In the last ten years of Green's life, during which his house at 46 Star Island was available at all times (R. 44), Green spent a substantially greater proportion of his time at Round Hills than he had done theretofore. All of his intimate and personal belongings remained at Round Hills (R. 41, 42, 45).

Florida trips: as to time, see diagram at end of Mass. Brief proper, also Tables A and B and supporting references to Evidence attached to Massachusetts Requests to Find.

Attitude towards Massachusetts.

54. Green chose Round Hills as the place for his principal home because it was already available through its ownership by him and his sister, was regarded by him with pride as his ancestral estate (R. 51, 35), was endeared to him by its associations with his boyhood and his mother, and because of its location on the seashore (R. 35) and its adaptability to development as a showplace and large country estate.

Ownership, pride and boyhood associations: see reference "Ancestral estate," paragraph 9, *supra;* looking for spring, Davis, Ev. 6528-9; D. 306; Marshall, Ev. 5354-5; D. 241; his interest in his Dartmouth and New Bedford background, Mass. Exs. 247, 248, 249 and 250 (Ev. 6110-14; D. 283-4; paragraph 42, *supra;* regarded fortune as a trust to establish a memorial to his mother at Round Hills, Neyland, Ev. 6671-2, 6695, 6738, 6749; D. 313, 317, 318; liked the seashore, Bullard, Ev. 7034; D. 329; showplace, letter to Prescott in 1919, Mass. Ex. 86 (Ev. 5243-9; D. 233).

55. From the beginning of Green's occupancy of Round Hills he intended to occupy it as his permanent and principal home (R. 54) notwithstanding that he expected to be absent from it during the first six months of each year. He intended always to come back, and said that he hoped he would be at Round Hills when his time came to die (R. 42). The reason why Green did not openly acknowledge Round Hills as his legal residence was that he wished to avoid paying taxes there (R. 42).

Permanency: its physical characteristics, paragraphs 17 to 20, *supra;* declarations, see references under paragraph 10, *supra.*

Tax avoidance, see paragraph 49, *supra.*

Mass. Ex. 77 (Ev. 5234; D. 232), October 28, 1918: "* * * I hope some time to make Massachusetts my home * * *"

Mass. Ex. 86 (Ev. 5248; D. 233), June 28, 1919: "Our intention is to make the place somewhat of a show place. I am growing plants of every known variety."

Mass. Ex. 110 (Ev. 5123-5; D. 219): Letter, Green to the Assessors of Dartmouth, Massachusetts, May 20, 1921: "* * * my intentions are to remain with you * * *"

Mass. Ex. 121 (Ev. 5259-60; D. 234), June 17, 1922: "* * * with the understanding that if I returned it to you it would be repacked and shipped to me at my residence in South Dartmouth, Mass."

Mass. Ex. 48 (Ev. 3751; D. 163), Brochure, "The Voice from Way Down East," describing Green's radio station, published with

his authorization in 1923 (Ev. 3751): "When the Mayflower landed at Plymouth on December 21, 1620, she had as cabinboy a lad named John Howland. Five years later, having come to man's estate, young Howland was allotted a tract of land on the west side of Buzzard's Bay, running from the site of the present city of New Bedford to the open sea. At the southern end of this great tract was a rocky point whose two rounded hillocks were a landmark to sailors. Eventually this portion of the tract was known as Round Hills Farm, and as such it has remained within the Howland family continuously, its present owner being Edward Howland Robinson Green. Within recent years Colonel Green has established there his summer home 'Rouad Hills House.'"

Mass. Ex. 148 (Ev. 5279-80; D. 235), June 30, 1924: "* * * For your information, I will state that ever since the Pilgrims my address has been as follows: E. H. R. Green, Round Hills Farm, South Dartmouth, Mass."

Mass. Ex. 154 (Ev. 5282; D. 235-6), October 13, 1924: "* * * The old Howard Regulator, purchased from you a number of years ago, is still in my possession and I had it shipped from Texas to my home here in South Dartmouth * * *"

Mass. Ex. 367 (Ev. 6224; D. 292), October 27, 1924: Application for membership in Massachusetts Society of Sons of the American Revolution, containing affidavit stating that Green's residence was South Dartmouth, Massachusetts.

Neyland testimony: In 1924 Green said, "I am so interested in this place that I just hope when my time comes I will be in Round Hills when I die" (Ev. 6684; D. 314) (found by the Master as a fact, R. 42).

Mass. Ex. 211 (Ev. 5294-6; D. 237), April 2, 1925: "* * * I have had much experience with tile at my home here at South Dartmouth * * *"

Mass. Ex. 369 (Ev. 6231; D. 292), October 19, 1925: Application for membership in Society of Colonial Wars in Commonwealth of Massachusetts, containing affidavit stating that Green's residence was South Dartmouth, Massachusetts.

Mass. Ex. 205 (Ev. 6080-2; D. 280), May 5, 1926, Letter, Green in Marlin, Texas, to Bullard in New Bedford: "* * * the first of June when I shall start trying to migrate back to the 'Land of the Pilgrim Fathers.'"

Mass. Ex. 470 (Ev. 9736; D. 407), July 22, 1926, Dedication Speech of the whaleship "Charles W. Morgan": "* * * Our old friend has returned to us where he will remain for the balance of his time on earth in our home at Round Hills. 'Charles W. Morgan', I welcome you home!"

Mass. Ex. 222 (Ev. 5296-7; D. 237), June 8, 1927: "Please extend to the Town of Dartmouth and its citizens my hearty congratulations on the anniversary of its birthday. Kindly welcome all the people who are perpetuating and continuing the memory of our good old town * * *"

Mass. Ex. 371 (Ev. 6236-7; D. 293), July 29, 1929: Application for membership in American Numismatic Society, giving address as Round Hills House, South Dartmouth, Massachusetts.

Testimony, Keyes, Coral Gables, Florida, April, 1931: Green said, "I am going back to Massachusetts." Witness said, "Why don't you make this your home?" Green replied, "Well, this is just a place I come to reside in the wintertime. I have a beautiful estate up there." Ev. 7692; D. 337.

Professor Bowles, of Massachusetts Institute of Technology, testimony: "Prior to the 1932 illness, Green said the doctors told him to get away from Round Hills if he wanted to live; that the weather here in New England was not right for him, and Green said that he was going to go to Round Hills and continue to go to Round Hills, and if he was going to die there he was going to die there and that was that, because he wanted to be there" (Ev. 6846-7; D. 324).

Mass. Ex. 332 (Ev. 5319-20; D. 239), November 8, 1932: "My permanent address for your records should be as follows: E. H. R. Green, Round Hills House, South Dartmouth, Mass."

Hill, Superintendent of Green's airport: "About 1932, Green said he would like to spend his remaining days at Round Hills" (Ev. 6900; D. 326).

Texas Ex. 387 (Ev. 7188-9; D. 98), April 1, 1935: Green's deposition that for about 30 years he lived in Terrell, Texas, which "gave me the residence of Terrell, Texas * * * and I still claim it * * *," that he spent about six months out of the year as a rule in Massachusetts and spent substantially "the remaining six months between Miami, New York, and either Asheville or Lake Placid, New York."

Texas Ex. 9 (Ev. 862; D. 38), October 25, 1935, Letter, Green in Massachusetts to Buie in Texas: "* * * New England had to start this country, and *we eventually* got down to where you live."

56. Green regarded and never ceased to regard Round lls as his ancestral home, his preeminent headquarters, seat of his principal interests, the place where his most asured and intimate personal possessions were kept and place to which, when he was absent, he intended to re-n. He regarded Round Hills as his real, permanent and ncipal home. It stood first in his affections.

Returning to Round Hills, which stood first in his affections: Mass. Exs. 138 (Ev. 6000-1; D. 275), 205 (Ev. 6080-2; D. 280), 197 (Ev. 6071-2; D. 280), 240 (Ev. 6098-9; D. 282); Hill, Ev. 6898-9; D. 326; Bowles, Ev. 6846-7; D. 324; Neyland, Ev. 6683-4; D. 314; Stafford, Ev. 4993; D. 209.

Summary and Conclusion.

. *a.* At the time of his death and continuously for ty-five years preceding it, Green had no dwelling place exas and did not regard Terrell or any other place in s as a home. When he decided to establish his home at d Hills and began the development of the property for that purpose in 1917, he formed the definite in-on never to return to Texas to live. It was his desire

to escape taxation that caused him to claim Terrell, Texas, as his legal residence.

b. During the last fifteen years of his life, if Green regarded either his apartment in the Waldorf-Astoria or his apartment in the Sherry-Netherland Hotel as a home in any sense of the word, he regarded it as a subordinate home, and after the establishment in 1923 of his usual routine of spending part of his time in Round Hills and part in Florida, with stops at New York between, he came to regard his New York apartment as a mere stopping-off place on his trips north and south, and not as a home in any sense.

c. Upon the death of his mother and his marriage, Green began to establish his permanent principal home at Round Hills, South Dartmouth, Massachusetts. It became his permanent principal home and pre-eminent headquarters in July, 1921, and remained such throughout his lifetime. It contained his *lares* and *penates* and all the indicia of home. It was the seat of his principal interests. From July, 1921, to his death, Green regarded Round Hills as his principal home and intended that it should continue to be his principal home.

d. In 1927 Green set up an establishment at 46 Star Island, Miami Beach, Florida, and thereafter spent an average of four and a half months each winter there because he wished to get away from New York and liked the Florida climate and thought that it would be good for his health. It did not contain his *lares* and *penates*. It contained little that was personal or intimate to Green. If at any time Green regarded his house at Star Island as a home in any sense of the word, he regarded it as a subordinate home and he never had any intention of making it his principal home.

e. Upon every consideration—of time spent there, physical characteristics, persons and things there, things done

there, Green's attitude toward it, and his attitude toward other places, and his intention when absent to return—Round Hills, Massachusetts, became in July, 1921, Green's principal home and his domicile, whether his prior domicile had been in Texas or in New York; and Round Hills remained his principal home and his domicile until his death on June 8, 1936.

Part II.

Reprint of Master's Findings of Fact (R. 19-57) with Passages Excepted To Italicized and Commented On.

In this Part II of the Appendix, there is reprinted the portion of the Master's Report (R. 19-57) which contains the Findings of Fact. The Master's pagination has been retained, and every Finding of Fact to which an exception has been taken by any of the parties is printed in italics, with footnotes containing Massachusetts' contention in respect to the exception. The findings of fact so italicized and annotated follow:

[*19] *** FINDINGS OF FACT.**

Ancestry and Education.

Edward Howland Robinson Green was born at the Langham Hotel, London, England, on August 22nd, 1868, the son of Edward Henry Green and Hetty Howland Robinson Green (née Robinson). His parents were both domiciled at Bellows Falls, Vermont, where Edward Henry Green died on March 19th, 1902, and where he was buried.

On both his father's and mother's side, Green was of Colonial ancestry; his mother's ancestors—the Howlands—had settled in New Bedford, Massachusetts, and acquired extensive land grants in the adjacent Town of Dartmouth in the 17th Century, of which about 130 acres were inherited by Hetty Green. She was born and raised in New Bedford and her nearest relatives were there and in South Dartmouth. The fortune which she had inherited from her Howland and Robinson ancestors had its origin in the whaling industry of New Bedford and at the time of her death in 1916, it had grown to $67,000,000 and under her Will became the property of her surviving children—her son, Edward H. R. Green, and her daughter, Sylvia Ann Howland Green Wilks.

Green's education was obtained in the public schools of Vermont and New York, and in the years 1886 and 1887 he attended Fordham College, New York. Later, he developed by private study a wide fund of scientific information. His tastes were not artistic or literary, he had an excellent memory, a flair for experimentation and manifested a keen interest in astronomy, geology, electricity, photography, radio and X-ray, established an elaborate physical laboratory at Terrell, Texas, which he subsequently gave to a school at Denton, Texas, constructed an observatory on his house in Dallas and made many improvements in railroad transportation. At Round Hills, Massachusetts, he conducted alone and with the Massachusetts Institute of Technology various investigations and experiments for radio communication with airplanes, long distance photography, television, moving pictures, fog dissipation and aviation.

Personal Characteristics.

In his prime, Green was six feet four inches tall and weighed nearly 300 pounds. At the age of twenty-one, his left leg was amputated above the knee as the result [*20] of an * accident in youth and thereafter he used a cork leg. Notwithstanding this handicap, he was strong, robust and energetic until November, 1921, when he suffered an acute traumatic arthritis in the knee of his right leg, which thereafter greatly interfered with his movements. He was always interested in outdoor sports and amusements; in Texas, he had the first automobile and encouraged racing, participated in minstrel shows and dramatics, aided in the organization of a military company, and organized a baseball and fishing club. In New York, he was fond of attending the theater and baseball games until incapacitated, and in Massachusetts and Florida, *took an active interest in*

* Original pagination of the Master's Report is retained.

yachting and boating, owned a number of boats, and gave trophies for water sports (Fla. Exc. 2).

Footnote 1:

Fla. Exc. No. 2 claims that Green lost interest in boating in Massachusetts and retained interest in boating in Florida.

Massachusetts disagrees with this claim of Florida; although he always kept the boats in condition in both places, he did not himself use the boats in either Massachusetts or Florida during the latter years, when it was difficult for him to be lifted into the boats:

Very hard for him to get into boats and easier to get into automobiles: Berglund, D. 262, Ev. 5716-17.

Green's letter to Newcomb, dated April 12, 1929, Mass. Ex. No. 265, D. 254: "It has been such a punishment for me to go boat riding * * *"

In the later years, Green was rarely, if ever, in the boats: Marshall, D. 255, Ev. 5610; see also Rodearmel, D. 354, Ev. 8359; Carlson, D. 270, Ev. 5876.

Fla. Exc. No. 2 also claims that Green lost interest in giving trophies for water sports in Massachusetts.

Round Hills trophies for outboard motor races were not given up because Green lost interest, but because the New Bedford Yacht Club decided that there was not enough local enthusiasm for such races: Marshall, Ev. 5645.

While personally modest and unassuming, he enjoyed publicity and did things in a grandiose way. *He joined clubs, societies and social organizations in every community where he dwelt but never attended them* (Fla. Exc. 1; N.Y. Exc. 47).

Footnote 2:

Fla. Exc. No. 1 claims that Green's interest in clubs, societies and social organizations in Massachusetts declined and that his interest in such clubs, societies and social organizations in Florida continued.

The fact is that Green never at any time had much real interest in the type of organization to which Florida refers, although he was always a willing joiner wherever he happened to be. This willingness to join met a ready response from the Floridians and the winter colony there, but the fact of his joining should not be given any great significance. The Master's finding that he joined everywhere but never attended is clearly correct: Marshall, Ev. 5449-50, D. 247, and Ev. 5634. He did not even go into the Beach Club in Florida: Mansfield, Ev. 9726-7, D. 407. The fact that he stopped joining in Massachusetts would indicate that there was nothing left to join, rather than that he had lost interest in Round Hills as a home. The reason he resigned from the Wamsutta Club in New Bedford was that a friend of his had been expelled by the Club: Marshall, Ev. 5633-4, D. 256. Green joined the Lantern League of Old North Church, Boston, Massachusetts in July, 1935: Mass. Ex. 351, D. 290, Ev. 6201.

New York Exc. No. 47 states that the Union Club of New York City was an exception to the rule that Green did not attend clubs. The only support for this exception is a reference to the Evidence at pp. 9347-8, where the witness states that he was not absolutely certain.

but that between 1906 and 1930 he thought he had seen Green at the Union Club once or twice.

He cared nothing for society and never went to social functions (Fla. Exc. 3);

Footnote 3:

Fla. Exc. No. 3 does not dispute the finding that Green "cared nothing for society and never went to social functions," but excepts because the Master failed to find that Green manifested an interest in social functions given by himself and wife in Florida.

We respectfully submit that the Evidence shows that the one really interested in those functions was not Green, but Mrs. Green: Marshall, Ev. 5605, D. 254; Bell, Ev. 8345-6, D. 354.

his preference always was for the "man in the street" and for society *en masse*. He mixed largely with local residents of the places where he lived and made himself very popular, was always jovial and genial, democratic and public spirited. His close friendships were those formed in the early days in Texas. He had inherited from his New England ancestors a fondness for the water and seashore, and throughout his life he was also intelligently interested in things horticultural and agricultural, established an experimental farm and floral company in Texas and surrounded his places at Round Hills and Star Island with thousands of roses and rare plants.

He had no religious affiliations but contributed substantial sums to charitable organizations wherever he happened to be (Fla. Exc. 4).

Footnote 4:

Fla. Exc. No. 4 excepts because the finding "does not inform the Court of the decline of Green's interest in and contributions to charitable organizations in Massachusetts, and his continued interest in and contributions to religious and charitable organizations in Florida."

To support this exception, Florida lists certain limited classes of contributions made by Green to organizations in Florida and Massachusetts after 1928. The classification used overlooks the bulk of Green's philanthropic contributions during that period. The total contributions made by Green to all organizations in Massachusetts after 1928 was $100,305 (D. 144), and to all organizations in Florida was $18,743 (D. 146-7). The Massachusetts contributions of $100,305 do not include contributions of $99,661.18 made to Whaling Enshrined after 1928 (D. 148).

In 1934, 1935 and 1936 Green's contributions to organizations in Florida totaled $1600 (D. 147). In the same years, he contributed

$26,948.16 to Whaling Enshrined (D. 148), and continued to d
the use of his facilities at Round Hills to Massachusetts Institu
Technology. Up to the time of Green's death, seven men on the
staff were engaged in research at Round Hills: Bowles, Ev. 6848, D

He made large contributions to the Massachusetts Insti
of Technology at Cambridge, Massachusetts, for scien
research and to Wellesley College in Massachusetts and
Mary's Girls School at Peekskill, New York, jointly with
sister, Mrs. Wilks, as a memorial to their mother. In
later years, he enjoyed the society of young girls and
tween 1919 and the time of his death, he had a number
protegées, *most of whom were daughters of old Te
friends and of acquaintances in Massachusetts* (Tex. F
1);

Footnote 5:

Massachusetts acquiesces in the exception of Texas to the effect
none of Green's protegees were daughters of acquaintances in Ma
chusetts.

sent them to private schools and colleges; had them spen
portion of their vacations with him and his wife at Rou
Hills, and supplied them with clothing, jewelry and au
mobiles and carried on an extensive correspondenc
[*21] in which he kept himself advised of their pro
ress and gave them much good advice. He w
familiarly known to them as "Uncle Ned."

Acquisition and Accumulation of Wealth.

In his latter years, when physical infirmities and illne
restricted his activities and he was compelled to spend muc
of his time indoors, he developed many hobbies, became
collector of rare stamps, and later of rare coins and cu
rency, and jewels and at the time of his death had in h
apartment in New York, in the banks of New York and in th
vaults at Round Hills collections valued at nearly $4,000,00
(75-76). He usually travelled with 28 trunks containin
his miscellaneous collections and at his Round Hills an

Star Island homes had an immense number of jig-saw puzzles and moving picture films.

Aside from his railroad activities in Texas between 1892 and 1911, he was never in any active business or devoted to the making of money (N.Y. Exc. 58),

Footnote 6:

N.Y. Exc. No. 58 claims that the Master should have found that Green was very active in business in Texas and New York, and gave the same his personal attention until he was incapacitated in 1921, after which his business affairs were principally conducted through his office in New York City, and that he was devoted to the making of money throughout his life.

Massachusetts submits that the Master's finding is correct. Green's real interest was not in the business field. His career in New York was never that of a business man in the ordinary sense of the term. During his mother's lifetime, he went to the office where her affairs were managed almost every day and spent from fifteen minutes to two or three hours there: Potter, Ev. 3094-5, 3476-7, D. 124, 149. For a part of almost every working day, he went to the Seaboard Bank. He made purchases of securities through the Bank and talked to the Bank officers about baseball and the theater: baseball, Cleverley, Ev. 4230, D. 170; De Vausney, Ev. 3693-4, D. 160-1; theater, Cleverley, Ev. 4234-5, D. 170; security purchases, De Vausney, Ev. 3690-1, D. 160; Ev. 3705-6; Cleverley, Ev. 4252-3, D. 170.

After Hetty Green's death, Green was not at the New York office for more than four or five hours a week altogether: Potter, Ev. 7886-7, D. 405. There was never any great business or investment activity on the part of Green or the New York office. Very few sales were ever made. For the most part, mortgages and other securities were retained until maturity or redemption, when the proceeds were reinvested, largely in tax-exempt securities. After November, 1921, when it became difficult for Green to get about, he never went to the New York office, and he did not request or receive regular reports from the office concerning his securities or even an inventory of his investments. He did, however, require the office to send him a monthly statement of the amount of cash on deposit in his checking accounts, which was the information in which he took the most interest. (No great investment activities, few sales, etc., Potter, Ev. 7862-5, D. 403; business routine of the office, collecting income, Potter, Ev. 7857, D. 403; correspondence, Potter, Ev. 3094-5, D. 124, and Ev. 3392-9, D. 139; accounting, Potter, Ev. 3080-3, D. 123; and Ev. 7871-2, D. 404; tax work, Potter, Ev. 3463-6, D. 149, and Ev. 3473-4, D. 149; no regular reports on investments and no inventory, Potter, Ev. 7865, D. 403; monthly statement of checking account balances, Potter, Ev. 7865-6, D. 403; Wilks Ex. No. 3, D. 403.)

and although maintaining an office in New York City, he relied largely upon an efficient manager and never visited this office after his serious illness in 1921. His large fortune was the result of inheritance, tax avoidance and income accumulation. While in Texas, he was largely dependent upon his mother for support and upon coming to New York in

1911, his mother gave him stock in one of her Holding Companies worth about $500,000. When he inherited his interest in his mother's estate after her death in 1916, he was 48 years old and unmarried. Under her Will, he became entitled to the residuary estate of his Grandfather Robinson, which was worth about $4,500,000, and to the income from one-half of his mother's residuary estate, which was kept in trust for a period of ten years after her death, and if he survived, to one-half of the estate outright. This one-half interest in 1926 had a value of about $33,000,000, and his income from 1917 on was from *$1,450,000 to $2,200,000, and over a period of years averaged in excess of $1,500,000* (N.Y. Exc. 60).

Footnote 7:

N.Y. Exc. No. 60 refers to a typographical error in these figures, which have since been corrected by the Master to read as printed above.

Substantially all of his income was spent by him for his personal expenses, in the building and maintenance of his costly dwellings, upon his boats, hobbies and experiments, including the radio station, airport and Whaling Memorial at South Dartmouth. During all of this period his Federal income taxes were very large, but aside from these and his real and personal property taxes in the various jurisdictions where he dwelt, and his poll taxes in Texas, he paid no income or personal taxes to any State, and thus, by tax
[*22] savings and conservative investments, accumulated an estate estimated at over $42,000,000 at the time of his death. (D. 118-157.)

On July 10th, 1917, he married at Highland Park, Illinois, Miss Mabel Emerson Harlow, who had been his companion and housekeeper for many years in Texas and New York. Prior to the marriage, they had entered into an antenuptial agreement by which she released her rights in his estate. There were no children of the marriage and at the time of his death her interest in the estate was confined to whatever

rights she may have had under the community laws of Texas as asserted in her answer.

Under his Will executed in 1908, his mother was made beneficiary and upon her death the whole estate was devised to his sister, Mrs. Wilks. The proceedings instituted for the probate of this Will in the Surrogate's Court of Essex County, New York, while the hearings in this case were in progress, resulted in a settlement of the controversy between the widow and sister and a release by Mrs. Green of all claims upon her husband's estate.

Domiciliary Periods of His Life.

With reference to domicile, Green's life, after he had reached man's estate, may be divided into three periods: (1) his early manhood in Texas from 1892 to 1911; (2) his business career in New York from 1911 to 1921, and (3) the period of decline and pursuit of health from 1921 to his death in 1936.

The first period when he was engaged in the railroad business in Texas was probably the happiest of his life; the second covers the years when he was called to New York to take up his mother's burdens in the management of her vast estate until her death in July, 1916, the settlement of her estate in accordance with the provisions of her Will, of which he was Executor and Trustee,) until he was stricken in November, 1921, and the third, or twilight years, when he was unable to pursue the outdoor existence he loved, when he was cut off from his old friends in Texas, unable to take long trips except for health, unable to go to his office in New York City or to give more than a passing attention to business affairs, and when he found himself in possession of an enormous fortune, which he began to spend freely in the erection of beautiful homes at South Dartmouth and Star Island and in the cultivation of his hobbies.

[*23] *** Life in Texas from 1892 to 1911.**

TEXAS MIDLAND RAILROAD.

For a few years prior to 1891, Green was in Chicago on his mother's business. In 1892, he went to Texas for the purpose of foreclosing a mortgage held by his mother on a piece of railroad then called the Texas Central, of which he took charge, becoming President, Manager and Director. At the time he took over a portion of the road, its name was changed to the Texas Midland Railroad and its headquarters and shops were maintained at Terrell, Texas, the junction of the road with the Texas and Pacific. The road was 54 miles long, in bad repair and with dilapidated equipment. Green devoted his efforts to the task of rehabilitation, converted it into an independent line and gradually extended it to a connection with other railroads until he had more than doubled its length. He rebuilt the road in a substantial manner and introduced many improvements and innovations such as vestibuled coaches, the first electrically lighted trains, electric headlights, the first gas-electric motor cars, dining service and experimented with an air-cooling system. With the exception of the period of Federal control, he retained close supervision of the road up to the time of its sale to the Southern Pacific in 1928. Substantially all of the stock of the railroad was owned by his mother and transferred to the Westminster Company in 1911. After 1911, the active management was left to the subordinate officers who were close friends of Green and weekly reports were made to him by them wherever he happened to be. At the time of the sale in 1928, it was one of the largest cotton carrying roads in Texas for its mileage. The road, however, was never a financial success.

From 1911 through 1921, Green habitually made two trips a year to Texas, visiting Terrell and Dallas in the Spring to attend an annual meeting of the railroad, and again in

October or November to inspect the road, and in alternate years to vote in Terrell at the State and Municipal elections. In some years he made an additional trip. The Spring and Fall visits were at first three or four weeks long and later were reduced to one or two weeks. From 1922 through 1927, he made but one visit a year to Texas, in the first half of the year, and omitted the Fall visit.

[*24] He * visited Dallas and Terrell for two weeks in 1922 and 1923 and thereafter spent only two or three days on each trip to Texas in Terrell and its vicinity, attending the railroad meetings and inspecting the line. On these latter visits, most of his time was spent at Marlin, Texas, receiving medical treatment. In 1922, he was in Marlin for treatment for three months and in the years 1924 to 1927, he was there for a month each year. After 1927, when the agreement to sell the road was made, he never made another visit to Dallas or Terrell and his only visit to Texas was in 1935 for treatment at the Buie Clinic at Marlin.

Domestic Establishments in Texas.

In 1897, Green acquired a private car known as the "Lone Star," which was burned in 1907 and rebuilt as "No. 999." His car was left on a siding at Terrell available for his use at all times until April 1st, 1928. He used it on all of his inspection trips and sometimes lived in it for as much as two weeks at a time. It was elaborately furnished, with dining room, kitchen, office quarters, reception room and state rooms. He travelled extensively in it throughout the Southwest. From 1896 to 1907, he spent more time in his private car than anywhere else.

Green's first living quarters in Texas were in an unpretentious hostelry, called the Harris House. Subsequently, about 1894, he moved into a building then known as the Opera House, where he maintained bachelor quarters in the

"Green Flats," on the second floor of the building, with two of his railroad associates, and had his railroad office in the same building. He also had rooms at the Windsor Hotel in Dallas and about 1896 or 1897, he leased the second and third floors of a building at Elm and Garfield Streets in Dallas, which he remodeled into comfortable living quarters. Later, he purchased a three-story building on Commerce Street in the business quarter of Dallas back of the City Hall, the interior of which he converted and remodeled at considerable expense. He occupied the entire building, which contained twelve or fourteen living rooms, until the building was sold to the Municipality in September, 1911. He also had political headquarters at the Oriental Hotel in Dallas. After the sale of his Commerce Street Building, Green caused one of his friends to rent a room for him in the home of Mrs. Jarvis, 503 Pacific Avenue, Terrell, for
[*25] $5.00 * a month. The rent was paid for three years and then stopped and the room no longer held for him. He sent to the room a box containing a pair of trousers and a vest but was never seen by Mrs. Jarvis in the house. This room was admittedly taken to preserve his right to vote in Texas. He also had a 200-acre experimental farm near Terrell where there were living quarters which he occasionally used. This was afterwards sold and from 1911 on he did not have a vestige of dwelling place in Texas except his private car which was sold with the road in 1927-28. While living in the car and in his bachelor quarters at Terrell, he had two colored boys as servants and at Dallas, he had a modest but comfortable establishment with three servants and Miss Harlow (afterwards Mrs. Green) as his companion and housekeeper. When he removed to New York in 1911, all of the best furniture in the Dallas residence was packed and shipped there for use in his New York dwelling and his library of books on scientific subjects was given to the Dallas Public Library. When he visited in

Texas in subsequent years, he always stopped at the Adolphus Hotel in Dallas or at the Buie Sanitarium in Marlin. Dr. Buie and other friends of his suggested that he purchase a house in Marlin but he never acted upon the suggestion, and at the time of his death his only real property in Texas consisted of some unsalable lots pertaining to the railroad which were appraised at $2200.

Associations and Activities in Texas.

Aside from his railroad activities, Green engaged in farming of an experimental nature upon his farm of 200 acres, became a stockholder and director of the American National Bank of Terrell, of the American Exchange National Bank of Dallas, of the Murray Company and other industrial corporations in Texas, and in conjunction with the United States Department of Agriculture and State authorities he experimented for the control of the boll weevil, which was destroying the cotton crops and seriously affecting the railroad traffic; experimented with cottonseed meal for human consumption; with the use of the round bale for cotton; with the terracing and conservation of land against wind and water erosion; with the use of lignite deposits for fuel and used it in the railroad shops, and prospected to some extent along the line of his railroad and elsewhere for [*26] oil.* He developed thirteen acres of greenhouses and was one of the first rosarians in Texas, and also engaged in the poultry and pecan culture. He brought the first automobile to Texas and developed auto racing; became interested in aeronautics and organized an aviation meet at Dallas; was active in the formation of the Texas State Fair at Dallas; placed an order for the first airplane to be brought to the Fair; was State Commissioner of the World's Fair at St. Louis in 1904 and assisted in the development of the Texas Centennial by the purchase of anniversary coins

and stamps in 1934. He had the first motion picture machine in Terrell and aided in the organization of the Green Cadets and Zouaves, a military company named for him. He subscribed through a bank in Terrell for $5,000,000 of Liberty Bonds during the World War and made a deposit of $250,000 to the order of the First National Bank of Terrell in 1920 although not financially interested in it to save it when a run was anticipated. In 1921, he opened an account for $100,000 in the Security National Bank of Dallas when a run occurred, to save it from failing.

In 1896, he became interested in Texas politics and was elected a delegate from Kaufman County to the Republican National Convention at St. Louis; was made Chairman of the Republican and State Executive Committee at the Fort Worth Convention and served in that capacity for four years and upon re-election, served until 1900; he was the leader of the Green-McDonald faction of the Republican Party and at the Houston Convention in 1906, was nominated for Governor of Texas, but declined upon the insistence of his mother. His faction seated its delegates in the National Convention of 1912, supporting Mr. Taft, and were for Mr. Hughes in 1916 and for General Wood in 1920. Between 1896 and 1900, he controlled the Federal patronage. In 1911 he ardently supported Colquitt for Governor and upon his election, was appointed a Colonel upon the Governor's Staff and served in that capacity until January, 1915. He contributed largely to the National, State and Municipal Campaign Funds, even after he gave up active participation in politics (Tex. Exc. 2).

Footnote 8:

Tex. Exc. No. 2 does not quarrel with the accuracy of the Master's finding, but claims that the Master should have found additional political activity in Texas during later periods.

After Green declined the nomination for Governor of Texas in 1906, upon his mother's insistence, his active participation in politics was curtailed: McDonald, Ev. 461-4, 508-9, 536-8, D. 19, 21, 22. He gave money up to 1920, but not thereafter. (McDonald obviously confused

on dates and contributions, Ev. 510-6, D. 21-2; *cf.* Potter, Ev. 3390-2, D. 139; Marshall, Ev. 5368-79, D. 242.)

On February 10, 1921, Green said that he was "entirely out of touch with the political situation in Texas * * *": Wilks Ex. No. 1, Ev. 560, D. 23.

Voting, Taxation and Social Interests There.

He voted at State and National elections in Texas prior and subsequent to 1911 until 1920 and paid his poll tax entitling him to register and vote until after he was [*27] 60* years of age, although under the laws of Texas he was not obliged to pay a poll tax because of his physical infirmity.

He never went into Texas society or entertained in any of his establishments, and aside from his political associates, black and white, his close friends were few but he remained loyal to them throughout his life and kept in close contact with them by correspondence and gifts of jewelry, etc. He said he liked the wide open spaces of Texas, the freedom from conventionality and the sterling character of the people and always remained loyal to his early associates there. In 1923, he created the "Terrell Trust" for several of his protegées, to whose education and maintenance he had contributed for years, and named his friend, Walter P. Allen, of Terrell, and his sister as Trustees. Vacancies in the Trust were to be filled by two of his old Dallas friends and in 1933, after their death, an amendment was made authorizing some one from Texas to fill vacancies. When seriously ill in 1935, he expressed a desire to be taken to Marlin for treatment, and again, in 1936, he asked Dr. Roche, in Florida, that he be taken to Texas but his medical advisers thought higher altitude would be more beneficial and he went to Lake Placid, where he died.

Uniformity of Declarations Regarding His Legal Residence.

With few exceptions, in substantially all deeds, papers and legal documents he described himself as "of Terrell, Texas" (Fla. Exc. 5),

Footnote 9:

Fla. Exc. No. 5 takes issue with the word "substantially" and points out some exceptions to Green's practice of describing himself as of Terrell, Texas.

Green's instructions to those who prepared papers for him to sign were invariably to describe him as of Terrell, Texas: Marshall, Ev. 5434, D. 246; Bullard, Ev. 7037-9, D. 329; Chinn, Ev. 2792, D. 94; and the few exceptions where this was not done are not of very great significance. Florida cites a few instances, such as automobile license applications, where he was recited as a resident of Florida. There were also some exceptions where he was recited as a resident of Massachusetts: Mass. Ex. No. 367, Ev. 6224, D. 292, and Mass. Ex. No. 369, Ev. 6231, D. 292. See also paragraph 55, Part I of this Appendix.

and instructed Marshall, his secretary, and Potter, his office manager, and his attorneys in New York, Massachusetts and Florida to always insert in important legal documents Terrell as his legal residence. All of his Federal income tax returns were filed in Texas *and the registration of his yacht and numerous boats showed Galveston as the home port* (Fla. Exc. 6).

Footnote 10:

Florida points out in Exception No. 6 that two of Green's boats, the "Friday" and the "Isola Stella," were registered in Florida. There was also another exception to Green's practice of registering his boats as from Galveston, Texas, when he registered the "Mabel G" as from New York: Rodearmel, Ev. 8357.

In his Will executed in 1908, in his application for a marriage license in 1917, in the probate proceedings connected with his mother's estate in 1916-18, and in genealogical articles which he signed or authorized he described himself as of Terrell, Texas. In 1922, he declined to consider running for Congress in Massachusetts because he claimed to be a resident of Texas. In 1929, he stated that he would not be available for appointment as Federal Radio Commissioner from New England because he was a rabid Republican, formerly

National Committeeman from Texas and only spent
[*28] the summer months in * New England. On March
29th, 1935, he testified under oath in Florida, that his
residence was Terrell, Texas, with a Winter home in Florida
and a Summer home in New Bedford, and in January,
1935, he returned to the Texas Centennial Committee a
certificate which described him as of Massachusetts, with the
statement "I have never changed my legal residence from
Terrell, Texas," and in almost all of his declarations, oral or
written, up to the time of his death he insisted that Texas
was his legal residence. If mental state alone, as evidenced
by declarations, could establish domicile, Green remained a
Texan up to the time of his death.

Life and Activities in New York From 1911 to 1921.

Green's mother became ill in 1910 and he went to New
York about July 21st, 1910, accompanied by his secretary,
Walter Marshall, and took quarters at the Waldorf Hotel,
where they lived and he conducted his business. He re-
turned to Texas in November, 1910, and told his mother he
would be ready to come North whenever needed. He in-
formed his railroad associates that it would be necessary
spend more time in the East because of his mother's
vanced age and illness and they would have to manage
e Texas Midland Railroad themselves under his super-
ion. Marshall brought his family to New York and in
ly, 1911, Green caused all of his household belongings
l automobiles to be packed and shipped to New York.
bel Harlow followed him and they moved to 5 West Nine-
h Street, which was owned by the estate of his grand-
ner, Edward Mott Robinson. A few months after his
val in New York, he opened an office at 111 Broadway,
re his secretary Marshall stayed until 1913, when he left
en's service, later returning to him after his mother's
h. Until her death, Green and his mother maintained

joint offices at 7 West Ninetieth Street, where his mother lived and died July 8th, 1916. This building also was owned by the Robinson Estate. After her death, the offices were transferred to 111 Broadway which remained Green's business headquarters until his death in 1936.

Green at that time was possessed of a personal fortune of about $500,000 and after his mother's death, as hereinbefore stated, received in his own right about $4,500,000 [*29] from * the estate of his Grandfather Robinson. On July 10th, 1917, Green and Miss Harlow were married at Highland Park, Illinois, and on October 31, 1917, started on a wedding trip for Galveston, Texas, in the yacht "United States," an old lake steamer which he had purchased October 3rd, 1916, enlarged and refitted. On January 17th, 1918, Green and his wife moved from 5 West Ninetieth Street to the Waldorf Hotel, allowing their furniture to remain in the Ninetieth Street house until it was later shipped to Round Hills, Massachusetts. Upon his return, Green remained in New York until June 30th, 1918, and then went to South Dartmouth, where he and his wife lived on the "United States", Green coming to New York for a few days in the middle of each week. They returned to New York in the Fall and spent the remainder of the Winter of 1918-19 there, leaving for Texas in May, 1919. The "United States" stayed at the wharf at Padanaram, near South Dartmouth, during this Winter and was kept fully manned with a crew of 72 men. With the exception of a few short trips, it remained there until it sank August 21st, 1919. Green and his wife stayed at the Tabitha Inn at Fairhaven, opposite New Bedford, until October, 1919, when he again left for Texas. Upon his return, he stopped at the Waldorf during the Winter of 1919-20 until July 1, 1920; spent the Summer with his wife on his boat "Day Dream" off Fairhaven, coming back to New York in October, 1920, leaving for Texas in November and lived at the Waldorf

with his wife during the Winter of 1920-21 until May, 1921, when he again went to Texas. From 1918 to 1921, Green spent about two-thirds of his time in New York City.

This period from 1911 to 1921 was the most active of Green's business career. He was managing his own fortune, which had increased until at the time of his mother's death it was approximately $6,000,000, handling his sister's business, assisting his mother with her affairs until her death and thereafter acting as Executor and Trustee of her vast estate, directing the family-owned holding companies, besides supervising the affairs of the Texas Midland Railroad. *He became a Director of the Seaboard National Bank July 7th, 1910* (N.Y. Exc. 61),

Footnote 11:

N.Y. Exc. No. 61 refers to a typographical error in this date, which has since been corrected by the Master to read as printed above.

and attended meetings with some regularity until the latter part of 1921. Later, he became a Director by succes-
[*30] sive mergers of the Equitable Trust Company and * the Chase National Bank and was a director of the latter institution at the time of his death. Until 1920, it was his custom to go to his office in the morning, then to the Seaboard Bank, where he had a large chair specially built for him next to that of the President and conducted much of his business, sometimes returning to the office in the afternoon. He also was a Director of the Columbia Trust Company and of the New York Produce Exchange Safe Deposit and Trust Company. Wilbur K. Potter was in full charge of the office, 111 Broadway, his official headquarters and business address, with a complement of bookkeepers and stenographers. Here all accounts were kept, investment information assembled, disbursements made and all records preserved of Green's personal business, his mother's estate and his sister's business and that of the family corporations in which they were interested.

In 1911, the Westminster Company was incorporated u
der the laws of New Jersey to take over the affairs of M
Hetty Green and Green became President. It was an I
vestment Company, of which Mrs. Hetty Green owned 51
of the stock and Green the remainder. It did no busine
for outsiders. After Mrs. Hetty Green's death, its oper
tions decreased and eventually it was liquidated, at the e
piration of the period of ten years from her death. Th
Windham Realization Company was organized under th
laws of New York in 1912 for the purpose of foreclosin
mortgages owned by Hetty Green. Green became its Pres
dent and managed its affairs. While still in existence, it i
practically dormant. It did no business for the public
Green Estate, Incorporated, was created under the laws o
Delaware January 5th, 1927, at the expiration of the ten
year trust established by Hetty Green's Will, to hold intac
the assets of her estate, except non-taxable Government
State and Municipal Bonds and some cash. Green and
his sister each own one-half of the stock. Stockholders'
meetings were held annually and directors' meetings two or
three times a year. The business of the Company was prin-
cipally the collection of interest and dividends and making
distributions to its two stockholders. Green was the final
arbiter of its affairs and determined its investment policy.
It carried very large cash balances and certificates of de-
posit in New York Banks running into millions of dollars.

It controlled no other corporations and did no busi-
[*31] ness * for the public. Green's New York accounts
ran all the way from an overdraft to $1,500,000,
and the average was between $200,000 and $400,000. All
funds for investment were kept in New York City Banks.
Green's personal securities were kept in New York City in
the National Park Bank, the Seaboard National Bank and
in a fireproof, burglary proof safe in the office, 111 Broad-
way. He also had storage space in the vaults of the New
York Produce Exchange Safe Deposit and Storage Com-

pany, of which Green was a Trustee at the time of his death. He also was a Trustee in the Columbia Trust Company from 1912 until he declined re-election in 1920 and attended its meetings with fair regularity until 1919. He attended no meetings of the Trustees of the New York Produce Exchange Safe Deposit and Storage Company after January 9th, 1918. Potter testified that Green spent about four or five hours a week at the office prior to his mother's death, that while the properties managed were extensive and varied, few sales were made and there was little business activity at the office; there were no stock transactions and the principal business was lending money on call, mortgage securities and the investment and reinvestment in tax exempt bonds. (D. 118-157.)

During this period, Green was also a member of numerous clubs, associations and societies in New York but never attended their meetings or visited them.

After his illness in November, 1921, all of his activities in New York ceased; the last bank directors' meeting he attended was October 20th, 1921, and he never went to his office, 111 Broadway, after that date and kept in touch with it by visits from Potter or by correspondence.

Green never entertained socially in New York but occasionally gave theater parties to some of his young protegées. Until 1921, he went to baseball games in the afternoon and to the theater in the evening. After 1921, his evenings were spent in his apartment playing games, listening to the radio and working on his stamp collection. *He had no close personal friends or associates in New York. The confinement resulting from this indoor life bored him and made him unhappy* (Tex. Exc. 49).

Footnote 12:

There are no exceptions to the accuracy of this finding; but in its Exception No. 49, Texas takes exception to the legal significance supposedly given to this finding by the Master.

Massachusetts sees nothing to indicate that the Master's conclusion was unduly influenced by this finding. Also, Massachusetts disagrees with

the Texas Exception to the effect that Green lost interest in Round Hills and was bored and unhappy there. Texas cites no evidence to support this claim, and the Record abounds with evidence to the contrary. See paragraphs 54, 55, 56, Part I of this Appendix.

Places of Abode in New York City.

The two four-story brown stone front buildings, 5 and 7 West Ninetieth Street, owned by the Estate of Ed-
[*32] ward Mott * Robinson, Green's grandfather, were in a residential neighborhood in a transition stage just off Central Park West. Upon his arrival in New York in 1911, Green took up his residence in No. 5 and there maintained a domestic establishment with Miss Harlow. The house was comfortably furnished and he installed a new furnace and had an organ and billiard table. The first floor contained a sitting room and dining room, the second the bedrooms occupied by Green and Miss Harlow and the third contained a billiard room and guest room and the fourth servants' bedrooms and a store room. In the basement were the kitchen, servants' quarters and laundry. They had two Japanese servants and a maid and took their meals there. Each had a Pierce-Arrow car and from 1914 to 1918 Green also had a Benz car, all of which were kept on storage in New York City and there registered. His mother visited him there frequently and they had some other visitors. After their marriage in July, 1917, and upon their return from their honeymoon on the yacht "United States," they spent a couple of weeks at 5 West Ninetieth Street and *during the latter half of 1917, lived on the "United States" anchored off West Eighty-Sixth Street* (N.Y. Exc. 62);

Footnote 13:

Massachusetts concedes that the yacht "United States" was anchored off West 86th Street only while it was in New York, and not during the cruises to Round Hills, Massachusetts, and to Texas. Massachusetts agrees with New York's statement of additional facts in its Exception No. 62, and believes that the Master has in substance found the same facts in other portions of his report (R. 29, 35).

after the holidays they moved to the Waldorf-Astoria Hotel, where they occupied an eight-room apartment, consisting

of a sitting room, office, a room occupied by a clerk working on the stamp collection and four bedrooms. Green's room was a combined bedroom and office containing a desk. Marhall, his secretary, had his office there. The apartment was omfortably furnished; rented on a yearly basis and after he first year, at a daily rate. Meals were furnished by the lotel and billed weekly. While living there, Green worked n his stamp collection until late at night and took a great nterest in radio. Their friend, Mrs. Mary Stafford, became ne of the family circle in May, 1918, and made her home ith them from 1918 to 1927. Miss Ruth Lawrence, one of is protegées, spent a portion of her school vacations there nd he was there visited by friends from Texas and elsehere and by business associates, but did no entertaining. hey remained tenants of the Waldorf until it was demolhed, when they moved to the Sherry-Netherland Hotel, one the best Apartment Hotels in New York City, where they cupied the twenty-fourth floor in the tower. Their suite there consisted of a dining room, which was used as 33] an office for his * secretary, a large living room, entrance hall, bedrooms, servants' rooms and elevator. e living room overlooked Central Park and opened upon errace which was used by Green for sunning. At first he d a lease running for two years from May 1st, 1929, at a tal of $27,000 per annum, which was not renewed, and reafter the rental was continued on a monthly basis, at rate of $27,000, until January 1st, 1933, when a reduc- was made. It was a non-housekeeping apartment and rental included regular guest service from the Hotel. ne of the furniture which they had used at the Waldorf purchased by the Sherry-Netherland for use in this rtment. The apartment contained large safes for his nps and coins, some chairs and lamps and a few framed ures and other personal accessories. In general, the iture and furnishings from the Waldorf suite were ght to the Sherry-Netherland. Several of the former

employees at the Waldorf came to the Sherry-Netherland and *Green said he wanted to preserve the atmosphere of the old Waldorf* (N.Y. Exc. 63).

Footnote 14:

The only criticism of this finding is in New York's Exc. No. 63 that it is "not adequate" and that the Master should have found certain additional facts "in addition to and enlargement upon" the finding.

They had no dining room and Green ate at his desk or on a card table (N.Y. Exc. 64).

Footnote 15:

New York in its Exception No. 64 excepts to this finding on the ground that the Greens had a dining room at the Sherry-Netherlands and used the regular private dining service supplied by the hotel.

Mrs. Berglund testified, Ev. 5771, that there was a dining room at the Sherry-Netherlands apartment, but that it was used by Mr. Marshall as an office; and in answer to the question: "And what did the family eat off of there?" she replied: "In Mr. Green's room, in the big room, where they had all the safes and the desk where he was sitting working at."

He then had two nurses and a maid and Mrs. Green had a maid; also an unlisted private telephone. He was there visited by many of his friends from Texas and elsewhere and business associates and sometimes entertained them at meals.

His furniture, pictures and furnishings remained in the house, 5 West Ninetieth Street, until 1921, when most of them were moved to Round Hills, Massachusetts. In 1928, the remainder was sent there and the house demolished.

Between 1918 and 1932, he had a number of automobiles for himself and his wife which were registered in New York City and when not in use kept on storage.

In the last three years of his life Green avoided New York because of efforts to serve him in certain litigation against the Directors of the Chase Bank (N.Y. Exc. 51).

Footnote 16:

N.Y. Exc. No. 51 does not challenge the accuracy of this finding, but seeks to make additions as follows: "in the last three years of his life, Green, on the advice of his personal general counsel in New York City, avoided New York because of efforts to serve him in certain litigation against the Directors of the Chase National Bank." Massachusetts has no objection to such additions.

During the last ten years of his life, this apartment in New York was used as a temporary sojourning place on his trips North and South (N.Y. Exc. 65)

Footnote 17:

This finding is challenged by New York but is amply supported by the Evidence. As to time spent, see Tables A and B with their supporting references to Evidence, attached to Massachusetts Requests to Find. As to attitude towards New York apartment, see paragraphs 6 and 7, *supra*, Part I of this Appendix, and the references to the Evidence there given.

nd at the time of his death, contained over 100 of his nother's letters, *a portion of his stamp collection* (N.Y. Exc. 8), *his interest in which had been slight since 1927* (N.Y. xc. 49),

Footnotes 18 and 19:

In N.Y. Exc. No. 48 it is pointed out that more than 80% of Green's total stamp collection was kept at his apartment in the Sherry-Netherlands Hotel in New York City. This is correct; but, as the Master has found, the portion of the stamp collection kept at the Sherry-Netherlands was the portion in which Green's interest had been slight since 1927. In N.Y. Exc. No. 49 an exception is taken to the finding that Green's interest in his stamp collection had been slight since 1927, and it is claimed that stamp collecting was Green's principal hobby and that he always maintained his interest in it. The Evidence clearly shows that Green lost his interest in stamp collecting in 1927, and did not take it up again until about 1934 or 1935, when he began to make a collection of 20th century stamps: Potter, Ev. 3581, D. 157; Jette, Ev. 6617, D. 308-9; Mass. Ex. 342, Ev. 5324; Marshall, Ev. 5387-9, D. 243.

ne clothing of Mrs. Green and a few personal belongings worth less than $1000.

34] * The tangible personal property owned by Green in New York State at the time of his death was as lows':

Jewels	$482,545.25
Coins	1,338.57
Cash	3,040.00
Stamps	1,095,316.00
Miscellaneous personalty	982.00
Total	$1,583,221.82

0. 75, 76.)

Voting and Taxation There.

Green never registered or tried to vote in New York. In 1916, his name was put upon the Assessment Rolls of New York City and his property appraised at $10,000,000, but upon application of his attorneys and affidavits by Green that he was not and never had been a resident of New York and that his legal residence was in Texas, this assessment was cancelled and no further attempt made to collect a tax on his intangible personal property. After 1919, when New York substituted an income tax for this intangible property tax with a graduated rate applying to the entire net income of a resident, Green never made any income tax return or paid any such tax in New York. (D. 126, 127.)

In 1917, while cruising in New York waters, when Mrs. Green and Mrs. Stafford suggested that he build a home on Long Island he said that he did not want to, as he did not want to pay taxes in New York; later he told them he wanted to build on his mother's place at Round Hills. (D. 207.)

There is nothing in the correspondence between Green and his attorney, Charles W. Pierson, of New York City, indicating that he ever regarded himself as a resident of New York (N.Y. Exc. 66).

Footnote 20:

Massachusetts acquiesces in N.Y. Exc. No. 66 to the extent that it is claimed that this is a negative finding.

When he was advised by his said attorney that he had been assessed $5,000 for personal property in New York City for 1933, and Mrs. Green assessed a like amount, as non-residents, he replied that all he had in New York City was a stamp collection and safes, to him worth more than $5,000; all Mrs. Green had was a radio set and perhaps some cast off clothing (Mass. Ex. No. 330; D. 228).

[*35] * **Massachusetts and Florida, 1921 to 1936.**

ROUND HILLS ESTATE, SOUTH DARTMOUTH, MASSACHUSETTS.

The third and closing period of Green's life—the fifteen years preceding his death—shows not only a lessening of business activity, a desire to escape from the uncongenial environment of New York, and withdrawal from his former associations with Texas, but that his principal concern was his health and he was constantly seeking relief from the ravages of disease by "following the sun" and indulging in hobbies and outdoor activities where the climate permitted (Tex. Exc. 3).

Footnote 21:

The progressively diminishing visits to Texas over the period from 1911 to his last visit in 1935 are undisputed. See Report, pp. 24, 51, relative to visits to Texas, to which no exceptions have been taken. After 1921 the little time he spent in Texas was chiefly at the Buie Clinic at Marlin, R. 24, 51. After 1927 he went to Texas only once, in 1935. The claim of Texas that Green was kept away from Texas by his ill health is hardly consistent with the fact that during the last fifteen years of his life Green's health was the chief reason for his going to Texas. It was to Round Hills, Massachusetts, that Green kept coming back and staying late in the year in spite of the doctors' advice. See paragraphs 35 and 55, Part I of this Appendix.

Professor Bowles, of Massachusetts Institute of Technology, testimony: "Prior to the 1932 illness, Green said the doctors told him to get away from Round Hills if he wanted to live; that the weather here in New England was not right for him, and Green said that he was going to go to Round Hills and continue to go to Round Hills, and if he was going to die there he was going to die there and that was that, because he wanted to be there." Ev. 6846-7, D. 324.

After his mother's death in 1916 and his marriage in 917, he was free to establish a permanent home in any ocality that he considered suitable, because he then had no ttachment to the soil anywhere and was free from restraint. n the month following his marriage, he and Mrs. Green ailed to Buzzards Bay and anchored off Round Hills Farm, property which Green and his sister had inherited from eir mother. As a boy he had spent two Summers there ith his mother and sister. It was a seacoast property of pproximately 130 acres, located at South Dartmouth, Mas-

sachusetts, about eight miles from New Bedford, which had been in the ownership of his Howland ancestors for over 200 years—from the time of the original Indian grants—and was regarded by Green as an ancestral estate. The only structures then on the property were the old Howland homestead and some outbuildings. *On this first visit in August 1917, he determined to develop the property into a great country estate and build there a monumental home* (Tex. Exc. 52; Fla. Exc. 7).

Footnote 22:

This finding is amply supported by the evidence.
See paragraphs 8, 9, 10, Part I of this Appendix.

On several other visits that Fall he ordered the clearing of the land, construction of breakwaters, wharfs, water tanks, pumping plant, greenhouses, gardeners' cottages, surveys to be made of adjoining property and had conferences with architects and interior decorators. *From 1918 to 1921, the development of this property was his principal occupation* (N.Y. Exc. 68; Fla. Exc. 8)

Footnote 23:

This finding is amply supported by the evidence.

See paragraph 11, Part I of this Appendix, and unexcepted finding on page 52 of Master's Report that "During the interval between 1917 and 1921, he spent much of his time at South Dartmouth superintending the building operations."

and in June, 1919, the foundation of the house was started by Mrs. Green turning the first spadeful of earth. He lived on his yacht "United States" until she sank in August, 1919, and later at the Inn at Fairhaven, and in 1920 on the house boat "Day Dream", watching the progress of the work. In July, 1921, the house was ready for occupancy and Green and his wife moved in.

[*36] * Green stated that his sister was willing to have him do what he pleased with the property and as they were childless, *if he survived he would have the entire*

ownership and if she survived she would own it as residuary devisee under his Will executed in 1908 (N.Y. Exc. 69).

Footnote 24:

This finding is amply supported by the evidence. See paragraph 12, Part I of this Appendix.

Mrs. Green had relinquished her rights by an antenuptial agreement, under which she received a guaranteed income of $18,000 a year. As Green and his sister were the last of their line, Green had a plan, which was never matured, to have the house become a memorial of some kind to the Green and Howland families. The house was designed and constructed so that it might be converted into an institution but was designated on the plans, equipped and furnished as a spacious residence, with every household convenience, and was used as such from the time he moved into it until his death.

The Round Hills property which passed under Mrs. Hetty Green's Will was a triangular tract with sandy shores jutting into Buzzards Bay. It was mostly wooded and uncultivated farm land on which was the old Howland homestead, some outbuildings and a small family graveyard containing two members of the Howland family. Between 1918 and 1920, Green purchased about 140 additional acres and later purchased two more parcels. In 1925, he conveyed about four acres to Whaling Enshrined, Inc., a corporation which he organized, but with this exception *retained the whole estate of about 270 acres up to the time of his death* (N.Y. Exc. 70; Fla. Exc. 9).

Footnote 25:

Massachusetts agrees with the New York and Florida exceptions that about 130 acres of Round Hills was inherited by Green and his sister from Hetty Green, and was owned by them as tenants in common, and that the big house was built on this portion of the estate. This property, inherited by Green and his sister, had been in their family continuously since the seventeenth century (R. [illegible]).

The estate comprised a bathing beach, a piece of woodland, some farm land, an extensive lawn with shrubbery,

etc. He also acquired some wharf property about a mile distant at Padanaram as a headquarters for his boats and built a machine shop, floating dock, etc. Between 1917 and 1921, in addition to the house, Green constructed half a dozen cottages and had a "hotel" for employees, numerous farm buildings, garages, greenhouses, bath houses, pier and water tank and built jetties and retaining walls to prevent erosion and planted thousands of roses. Later, when he extended his activities, he built swimming pools, tennis courts, radio broadcasting stations with towers, airport and hangar, an airship dock, brought an old windmill from Rhode Island and embedded in cement a complete whaling ship, the "Charles W. Morgan" which had been sailed by his whaling ancestors, and began to accumulate whaling antiquities. At the time of his death, there were about 60 buildings on the property.

[*37] * The house was a three-story rectangular structure of granite, with tile roof and Doric portico, with four columns surmounted by a heavy pediment, facing the waters of Buzzards Bay. Along the waterfront was a wide tiled terrace extending around the south wing and terminating in an open loggia overlooking the south beach, the front of which was of glazed tile to permit dancing. Under the portico, the main entrance led into a central hall containing a double mahogany staircase and an electric elevator running from the basement to the third floor. To the right of the entrance were Green's study, the library and a hall leading to the living room which occupied the entire south wing and was about sixty by thirty feet. To the left of the entrance, was the estate office and beyond the dining room, approximately forty by thirty feet—beyond this was the breakfast porch, a butler's pantry, the main kitchen and service quarters. On the second floor, Green and his wife had bedrooms, each measuring approximately thirty by twenty feet, with baths and dressing rooms, occupying the

entire south wing. Opening off the hallway were a number of guest rooms, each having its own fireplace and bath. On this floor there was also a tea room, fitted with furnishings from the "United States" and the apartment of Green's secretary. The service quarters occupied the third floor. The basement contained an automatic oil heating system installed in 1935, valet's pressing room and a specially constructed vault for the storage of valuables.

The house was not only institutional in appearance but massively built, with walls sixteen inches thick of granite and masonry, interior columns and supporting beams of reinforced concrete and partitions of brick or terra cotta. The roof beams were supported by steel frames resting on the masonry walls and there were an unusual number of outlets for electric lights, etc. The furnishings were elaborate and most of the furniture specially built. Some of the pictures, clocks, etc., had been moved from 5 West Ninetieth Street, New York, and had formerly been in his Dallas homes. A portion of the first floor had mahogany wainscoting and many of the rooms were provided with revolving fans such as Green had seen in Texas, so arranged that they could be used to circulate the heat from the radiators in cold weather.

At this house, Green assembled all of his family possessions and heirlooms, two oil portraits of his mother
38] and * another of his grandfather, Edward Mott Robinson, fine prints and engravings of whaling ships and scenes, photographs of the "Charles W. Morgan," framed certificates of his membership in various historical societies, photographs of the New Bedford house in which his mother was born and of the Captains of the New Bedford "Stone Fleet," and of Green as a Colonel on Governor Quitt's Staff and mementoes of other incidents in his career.

The library contained a well chosen collection of miscellaneous and scientific books and of many rare volumes on the early history of New England and of the Elizabeth Islands, opposite South Dartmouth, log books and other mementoes connected with the whaling industry, and a machine used for stamping medallions with the names of visitors to the "Morgan". In his bedroom were pictures of his mother and of the old Howland homestead, and scientific instruments and paraphernalia connected with the stamp and coin collections. *In the vault in the basement, was kept* his liquor and the *bulk of his collections of* jewelry, numismatics and *stamps,* which he took with him on trips to Florida and Texas and shipped back to Round Hills (N.Y. Exc. 48).

Footnote 26:

The finding is clearly correct that the bulk of the collections was at Round Hills, and the exception relates to the single item of stamps alone. As to the stamps kept at the Sherry–Netherlands and at Round Hills respectively, see Footnotes 18-19, *supra.*

At one time he had a number of small boats, called his "Navy" or "Mosquito Fleet," but sold most of them after the sinking of the "United States" in 1919. The grounds were filled with mementoes of the sea. The driveways were bordered with hundreds of yards of anchor chain from the Charlestown Navy Yard and upon the lawn was planted a part of the hull and mast of the whaling ship "Wanderer" which had been wrecked upon the Island of Cuttyhunk nearby.

The household at Round Hills included Mrs. Green, Marshall, his secretary, his bookkeeper and the clerk in charge of his numismatic collection, Mrs. Green's personal maid, Green's nurses and a staff of about 30 servants. Outside of the household servants, he had employed about the place over 50 farmers, mechanics and other employees. *Mrs. Stafford, who had made her home with them in New York,*

lived at Round Hills each year from 1920 to 1927 (N.Y. Exc. 50)

Footnote 27:

In 1920 Mrs. Stafford was acting in the Winter Garden Theatre in New York City and lived principally at the Greens' apartment in the Waldorf, only visiting them in Massachusetts: Ev. 4970-71, D. 208.

During 1921-1927 Mrs. Stafford was no longer in the theater, and she lived with the Greens wherever they were: (1921) Ev. 4977, D. 208; (1922) Ev. 4981-2, D. 208; (1923-7) Ev. 4990, D. 209.

and several of his protegées spent their Summer vacations there. Most of the outside employees remained there all the year round *but after the Winter of 1921-22, a skeleton staff of seven or eight servants was left in the house in the Winter and the remainder went back and forth between* [*39] *Round Hills and* * *Florida* (N.Y. Exc. 53).

Footnote 28:

Massachusetts acquiesces in this Exception (except that seven or eight servants, not a few, were left at Round Hills when Green was away), and points out that the "summer season" at Round Hills therein referred to extended into the middle of December. See paragraph 21, Part I of this Appendix, for detailed movement of servants.

The house was kept heated throughout the Winter, but the furnishings were covered and protected (N.Y. Exc. 54).

Footnote 29:

New York does not except to the accuracy of this finding, but suggests further additional details which should be found.

Massachusetts does not object to these additional details except that it gives a false impression to say that the house "was closed." There were always at least seven or eight servants living there (paragraph 21, Part I of this Appendix).

Most of his automobiles with Massachusetts registrations were kept there and when they began moving to Florida, the cars for Colonel and Mrs. Green were taken back and forth and many of them were provided with Florida license plates.

Activities, Interests and Associations at Round Hills.

Because of the arthritic condition which developed in 1921, Green used a small electric hand operated car by which he

propelled himself around the grounds and later bought a small closed electric car with heating equipment which could be used in cold weather. This car was fitted with appliances for his collections, books and papers and enabled him to be outdoors in all kinds of weather, to give attention to the various activities there.

At Round Hills, Green did not go into society and was indifferent to the Summer residents of Nonquitt and Salters Point, especially after they objected to his radio and aviation field. *His guests were limited to some old residents of New Bedford, visitors from Texas and his wards* (Tex. Exc. 5).

Footnote 30:

Massachusetts believes that the finding is amply supported by the evidence.

See paragraph 33, Part I of this Appendix.

He enjoyed hobnobbing with farm employees and the local tradesmen of New Bedford and the men engaged in scientific research. He was very popular with the people of the vicinity and kept his grounds open to the public who came by thousands to bathe on his beach and see the whaling ship "Morgan." He made his grounds and boats available for the use of crippled children and supplied all year round bus transportation for girls attending public schools. His daily routine was to have breakfast in his room or with his wards, motor around the estate inspecting the improvements, go shopping in New Bedford, have lunch and dinner with the family and afterwards spend the evening showing moving pictures, playing the slot machines and working until late at night over his stamp and numismatic collections. During the first year he was at South Dartmouth and vicinity he made weekly trips to New York until they were discontinued after 1922. He gave some attention to farming and horticulture as in Texas, had a dairy, raised goats, poultry, etc., and employed about 40 farm hands, half of whom stayed

all the year round. His farm supplied the house with vegetables and his greenhouse furnished flowers, but were not profitable.

[*40] * He maintained an unusual photographic laboratory and made moving pictures of his activities there. In 1922, he became interested in radio, constructed two broadcasting stations and enlarged them in 1925 so that programs could be sent from his station WMAF, called "The Voice from Way Down East," throughout New England and even to Europe, issued a pamphlet describing this station in which he spoke of himself as a descendant of the John Howland to whom the Round Hills tract had been allotted. At his invitation, thousands of people came to hear his concerts and other broadcasts. At the end of 1925, when broadcasting became commonplace, he lost his interest in this phase of radio and devoted his attention to it as a means of communication, etc.

In 1927, his interest became centered in aviation and the use of radio in connection with navigation by air and sea. He placed a number of his buildings and his radio facilities at the disposal of the Massachusetts Institute of Technology, for experimental purposes, in connection with radio communication between the ground and air, direction finding, transmission of radio beams for the guidance of aviators, and in connection with this project he began the same year the construction of a fully equipped airport, with facilities for landing hydroplanes as well as airplanes, obtained licenses to dredge and fill in sections of the waterfront, and constructed a hangar and runway for airplanes. In connection with the Massachusetts Institute of Technology, he arranged with the Goodyear Tire & Rubber Company to supply a blimp for research work and built a blimp dock. This airport was rated A-1 by the United States Government and no landing charge was made. He employed a superintendent and established a school for aviators. In 1929, purchased a

flying boat for his wife called the "Miami Maid" which he kept at Round Hills. He studied the subject and could discuss aeronautics intelligently with mechanics upon his daily visits to the airport which was maintained in good condition until his death.

The Round Hills Research Division of the Massachusetts Institute of Technology started in 1925 and continued until his death. It began with a study of radio as aid to navigation and studies were made of the penetration and dissipation of fog as an aid to air navigation. In 1931, experiments were begun with high voltage generators for the "smashing" of atoms, etc. Green took a personal interest in these experiments and it was his custom to make daily
[*41] visits to the work * shop and laboratory. In the relief work during the Vermont flood in November, 1927, and in connection with the sinking of the "Vestris" November, 1928, and signalling to the Graf Zeppelin on her maiden voyage, as well as during the Byrd Antarctic Expedition of 1926-7, this station demonstrated its practical usefulness. Some part of this experimental work was carried on in collaboration with the United States Government. These various facilities cost Green upwards of $1,250,000 between 1925 and 1933, in addition to the money gifts made to the Institute of Technology. Pecuniary donations were discontinued after 1933 but he continued to supply the facilities.

Early in his development of Round Hills, Green began to assemble books, antiquities, etc., connected with the whaling industry in which his forebears had prominently engaged. In 1924 he tried to purchase the "Charles W. Morgan", an old whaling ship which had belonged to his ancestors at one time and finally arranged to have it transferred to Whaling Enshrined, Inc., to which corporation he transferred a part of his shoreland for a concrete berth and dock. Until his death he donated $10,000 to the maintenance of the ship and

her crew of a Captain and nine sailors. He collected flags which had been used as signals by the New Bedford Fleet and on anniversaries had them displayed. This ship was kept open to the public without charge and about 125,000 people visited it yearly. In connection with the "Morgan", it was originally his intention to construct a whaling village and museum but this project, while started, was never completed.

Many volumes in his library relating to whaling and marine industry and Gosnold's Voyage to New England in 1602 were of great rarity. Green had expert advice and gave much personal attention to the collection of these books and histories relating to the genealogy of the Howlands and the early history of New England, New Bedford and South Dartmouth. In his application for membership in the Massachusetts Society of the Sons of the Revolution and the Society of Colonial Wars, he claimed lineal descent from Massachusetts and Rhode Island ancestors. He also had a tablet in memory of his mother placed in the room of the Massachusetts Historical Genealogical Society.

All of these activities ceased in the last three years of his life but he continued to spend substantially all of his Summers *at Round Hills until his death and all of his* [21] *personal* and intimate belongings remained there* (N.Y. Exc. 55).

Footnote 31:

Massachusetts submits that this finding is amply supported by the evidence. See recital of some of the personal and intimate belongings which were at Round Hills, at paragraph 23, Part I of this Appendix.

The portion of the stamp collection which was left at the Sherry-Netherlands was the portion in which Green's interest had been slight since 1927. See footnotes 18-19, *supra*. The evidence does not support New York's claim that "all of the letters written to Green by his mother" were kept in New York City, but Massachusetts concedes that some of the letters from his mother were left in New York City, as is found by the Master, Report, p. 33.

old Neyland that he hoped to be there when he died 14). *His remains were brought there from Lake Placid*

for the funeral service and Mrs. Green continued to occupy Round Hills for six months after his death (Fla. Exc. 10).

Footnote 32:

Florida's Exception does not dispute the accuracy of this finding, but merely raises the question of its evidentiary value.

The cost of the Round Hills house and its furnishings was approximately $785,323.42; of the Round Hills farm, $616,-127.44 (Mass. Ex. No. 411; D. 267-8). *Between 1917 and 1936, Green expended on the Round Hills estate on both capital account and maintenance $6,688,639.55* (D. 268) (Fla. Exc. 11).

Footnote 33:

Florida excepts "because the Master failed to further find and inform the Court that the said amount included large sums of money spent on radio, aviation, Whaling Enshrined, and other activities not connected with Round Hills as a place of residence." The details of these expenditures are given in the Digest, pp. 265-8. Massachusetts concedes that all of these expenditures were not for the dwelling house proper, but they were all for Round Hills and very clearly they were for matters which were of great interest to Green and which helped to make Round Hills an absorbing, interesting home to him.

His assets in Massachusetts at the time of his death were:

Real estate at Round Hills (one-half interest in same)	$103,000.00
Real estate at Padanaram	25,000.00
Jewelry	864,119.00
Coins, medals and tokens (face value $126,-409.13)	376,799.64
Paper money (face value $608,013.42)	626,496.18
Gold certificates	33,370.00
Paper money	198,256.00
Stamps	203,132.00
Tangible personalty at Round Hills	63,823.60
Tangible personalty at Padanaram	4,711.00
Total	$2,498,707.42

(D. 75, 76, 77-79.)

Voting and Taxation in Massachusetts.

He never attempted to vote in Massachusetts, declined to register there or to run for Congress, and never openly acknowledged Round Hills as his legal residence, invariably giving as his reason that he wished to avoid paying taxes there (Fla. Exc. 12; N.Y. Exc. 57).

Footnote 34:

Both New York and Florida object to the above finding of the Master on the ground that Green went further and always denied that he was a resident of Round Hills.

Green, in several instances, did claim residence at Round Hills. See Mass. Exs. 367, 369, D. 292, and other instances cited under paragraph 55, Part I of this Appendix.

Green frequently stated that he never stayed in Massachusetts longer than six months in order to avoid paying taxes there. See paragraph 49, Part I of this Appendix.

n 1919, he had his yacht "United States" taken out of the tate to avoid taxes (N.Y. Exc. 56; Tex. Exc. 7).

Footnote 35:

The Exceptions of New York and Texas pointed out a typographical error in the date, which has since been corrected by the Master, to read as printed above. Massachusetts understands that the Exceptions do not otherwise challenge the accuracy of the finding, but the Exceptions do make certain other points in respect to the evidentiary value of the finding and in respect to where Green had his residence at the time.

or the same reason he carefully refrained from going into e State until after July 1st and always arranged to leave fore the expiration of six months. When notified by the ssachusetts Commissioner of Corporations and Taxan in 1928 of his liability to income taxes as a resident of ssachusetts, Green said that he had his legal residence at rrell, Texas, and was not at that time prepared to file or pay income taxes to Massachusetts as a resident. At
3] no time did he file an in-*come tax return or pay any income taxes to Massachusetts and after this erview, no demand was made upon him until the formal ice which was received shortly after his death. (D. 88-9, -231, 338-340.)

Physical Condition After 1921.

Although Green recovered from the acute illness of 1921 and his general health and the condition of his organs remained good, a gradual physical deterioration set in which resulted in extreme anemia requiring many blood transfusions, and removal of his teeth and a severe arthritic condition which was aggravated by the fog and dampness at Round Hills. He was frequently advised by his physicians that he should not remain there so late in the year but always insisted on staying into December except on four occasions in the last fourteen years of his life. During this period he never used alcohol but was addicted to the excessive use of bromo-seltzer which greatly weakened him. In September, 1932, a cardiac condition required him to seek a higher altitude and he went to Lake Placid, New York. From then on his decline was progressive. He was unable to go about alone and was driven by chauffeurs. He continued his shopping trips to New Bedford and spent much time outdoors on his estate accompanied by some of his protegées. *He was confined to the house more frequently and his activities were greatly curtailed or discontinued, although his interest survived* (Fla. Exc. 13).

Footnote 36:

Florida excepts "because the Master failed to find that as his activities in Massachusetts were curtailed or discontinued and his interest declined, his activities and interests in Florida increased and continued."

Massachusetts believes that this claim by Florida is clearly refuted by the evidence. Green's activities necessarily decreased everywhere after his heart attack in 1932, but as found by the Master, his interest in Round Hills and the activities there survived. See paragraph 36, Part I of this Appendix, and Massachusetts Brief in this Court, dealing with the activities in Florida.

46 Star Island, Miami Beach, Florida.

In 1923, Green was advised by his physician, Dr. Pascal, to go to Florida following an operation and blood transfusion in New York. He stopped in hotels in Miami and Jacksonville, purchased the house boat "Pioneer," upon

which he cruised; ordered a house boat to be constructed early in January, 1924; returned to Jacksonville and spent nearly two months at hotels or on the "Pioneer." When the boat which he called the "Colonel" was finally delivered, both boats were taken to Miami. In April, 1924, Green purchased a lot on Star Island, Miami Beach, at a cost of $32,000 and ordered some landscaping and the construction of a dock. In January, 1925, he returned to Miami Beach and lived on the "Colonel" at the Star Island dock for about three and one-half months. While there, Green pur-
[*44] chased * *two adjacent lots for $120,000, one of which contained a Yacht Club which he remodeled into a dwelling for the following season* (Fla. Exc. 14).

Footnote 37:

Florida excepts to the word "remodeled" and states that the Yacht Club was razed and a new dwelling erected. Massachusetts does not object to this statement of the facts. The nature of the changes is specifically described by the Master at the bottom of page 44, his Report.

The second part of Florida's Exception deals with the ultimate fact of whether Star Island was a home. This of course depends upon the preponderance of the whole evidence and reference is made to Massachusetts' Brief.

When he arrived in January, 1926, he had most of this work done over. That year he spent February, March and April on his house boat "Colonel" at the Star Island dock. The house was finally completed and they occupied it for the first time in 1927, remaining for nearly three months, then going to Marlin, Texas, in April. *During the succeeding years until his death, Green's average stay in Florida was about four and one-half months, between January and May* (Fla. Exc. 15).

Footnote 38:

The Florida Exception does not challenge the accuracy of this finding, but complains that additional findings should be made in respect to the time spent at Florida during different periods. As to these further findings suggested by Florida, we would like to point out that the small increase of time spent at Florida in the later years was at the expense of time which Green had formerly spent at New York, and was not at the expense of time formerly spent at Round Hills. Further, the small increase was due principally to the fact that in the last three years

of his life he stayed out of New York City entirely, due to threat of being made defendant in a lawsuit: Report, p. 33; footnote 16, *supra*.

The statement by Florida that after 1928 Green spent more time in Florida than he did in Round Hills is accurate only because of the fact that the period taken is 8½ years and Green died before going to Round Hills in 1936, so there were 9 years of living in Florida to compare with 8 for Round Hills. If the time spent by Green for the last 8 years, from June 8, 1928, to June 8, 1936, is taken it will be found that during this period of 8 years for each place he spent more time in Massachusetts than in Florida. See Table B and references to evidence annexed to Massachusetts Requests to Find.

Star Island House.

Star Island is an artificial island built by the Miami Ocean View Company by pumping earth from the bottom of Biscayne Bay opposite and within the city limits of Miami, and connected by a bridge near one of the principal Causeways leading to that City. It is elliptical in shape, with a circular driveway in the center leading into the principal estates and contains 46 lots. Green's estate comprised three of these lots containing approximately three acres. The entire area is restricted to residential and the houses are substantial and beautiful.

Green's residence embraces two houses of a low Spanish type, built of reinforced hollow tile and stucco. The main building faces the water and was separated from it by lawn about twenty yards wide covered with palms and exotic shrubbery. From the loggia in the center portion of the building there was a runway to the main dock, which was decorated with striped poles in imitation of Venetian gondolas. On the inland side were the service quarters, driveway and formal gardens filled with royal and cocoanut palms, etc.

When the work of construction was completed, nothing remained of the Yacht Club but the central living room, which was two stories in height with a bronze staircase leading to the second floor at one end and a fireplace with a balcony or mezzanine above. The ceiling of this room was ornate and beautiful. On both the waterfront and driveway

sides were loggias. West of the living room were the dining room, service quarters and double garages. On the east side was a large reception room used for displaying moving pictures, and patio and loggia, a sun room called the "Palm Room" and entrance hall in which was an electric [*45] elevator * to the second floor, where the Greens had their bedrooms, sitting rooms and baths. An enclosed passageway and corridor led to the guest suites, three of which were on the inland side and the other faced the waterfront. Each master bedroom had its own bath or shower and some of the suites contained sitting rooms. The windows and doors were placed to admit light and air. The servants' wing was unusually complete and accommodated about 25 servants. All of the main rooms contained numerous electric outlets. Green had his monogram, composed of two Gs interwoven, worked in the tile at the main entrance and in the front of both entrances; also his initial G on the panels of the elevator shaft. The house was constructed of the best materials and designed for comfort and beauty. There was nothing about it to suggest anything but an unusually fine private residence. It was furnished elaborately with specially built furniture manufactured by the Company that had made the Round Hills furniture and by decorators in New York City. The decorations were somewhat similar in style to Round Hills but lighter in color. The rugs were more beautiful and expensive than those at Round Hills and the general effect was more homelike. Adjacent to the room used for moving pictures, was a projector room and a room containing a large number of films, some of which were commercial but many made especially for Green showing scenes on Star Island and Round Hills. Green's bedroom contained some furniture specially designed for his use and much paraphernalia used in connection with his stamp and numismatic collections. *The house contained no library, no framed pictures or mementoes of his ancestors, or articles of a senti-*

mental nature or personal associations as at Round Hills (N.Y. Exc. 73; Fla. Exc. 17).

Footnote 39:

Massachusetts submits that the finding is clearly supported by the evidence, and that the articles mentioned in the Florida and New York Exceptions are inconsequential. Compare them with the articles at Round Hills: Report, pp. 37-8, and paragraph 23, Part I of this Appendix.

Green sold the "Pioneer" in August, 1925, and after the completion of his house, had the "Colonel" remodeled to look like a Mississippi River show boat and kept it moored at his dock for use as a dance pavilion at Mrs. Green's parties. This boat was sold in 1934. He also had three other boats in Florida—a tug boat called the "Friday", a speed boat, "Mabel G." and the "Isola Stella" (Italian for Star Island). Green himself never used any of these boats after 1929 and in the last few years they were kept tied up at the dock or in storage.

Green also had several automobiles for himself and Mrs. Green containing Florida or Massachusetts license [*46] plates,* *which were brought from Round Hills to Star Island and sent back at the end of the season* (Fla. Exc. 18).

Footnote 40:

Florida makes the exception that some of the cars were purchased in Florida and were therefore brought from Florida to Round Hills, and not from Round Hills to Florida. Massachusetts has no objection.

The grounds at Star Island were planted and cared for by the Exotic Gardens, Inc., which performed similar service for neighboring estates. Green took an interest in his grounds and flowers and it was regarded as one of the handsomest places in Miami.

Most of the remodeling of the building was done in his absence and when there he did not display the same interest in the construction as at Round Hills and seemed to rely more upon his architects, decorators and contractors.

The capital cost of the Star Island residence was $632,110.98 and the total expense account $842,324.66 (D. 151-

153). At the time of his death, his assets in the State of Florida aggregated $268,418.97, as follows:

Fractional currency	$4,039.70
Four boats	10,500.00
Furniture, etc.	45,237.00
Real estate	102,500.00
Property subject to agreement for deed	60,000.00
Mortgages	46,142.17
Total	$268,418.97

(Tex. Ex. 327; Ev. 2586-7; D. 75-76, 79.)

Household Establishment and Social Activities in Florida.

When the Greens were at Star Island, the household included Mrs. Green, Marshall, his secretary, and a staff of over 25 servants, some of whom were brought from Round Hills for the season and sent back. When not in use, the house was left in charge of a Miami couple as caretakers and the Chief of Police notified. Mrs. Stafford lived with the Greens for several seasons on their house boat and they had few other house guests except old friends from Texas. Green himself did not go into society or entertain but Mrs. Green did considerable entertaining, giving on one occasion a housewarming party for 300 guests, when the illumination of the gardens and floral display were elaborate. Although a member of various Miami Clubs, Green did not go there. He was very popular with townspeople and tradespeople but aside from a few acquaintances in the City of Miami who were prominent in local affairs, he had * no close friends there. *He never conducted in Florida any of the activities or experiments which occupied him in Texas and Massachusetts* (N.Y. Exc. 74),

*47]

Footnote 41:

Massachusetts submits that this finding is amply supported by the evidence. It is not excepted to by either Florida or Texas; and the

citations to the evidence supporting New York's Exception, when compared to the activities at Round Hills, are proof of the accuracy of the finding. Compare paragraphs 26 to 48, Part I of this Appendix.

and although facetiously calling himself a "cracker," he did not appear to be particularly interested in the history of Florida or in the accumulation of books or mementoes relating to its early history.

Aside from his financial interest in the Fogal Dry Dock and Storage Company, where he kept his boats, and a stock interest in some of the local banks, his life in Florida was typical of an invalid seeking health (Fla. Exc. 20)—

Footnote 42:

This is an ultimate fact which can be established only by a preponderance of all the evidence, and Massachusetts submits that there was ample evidence on which the Master based the finding, after having heard the witnesses and having seen Round Hills and Star Island.

cruising in the waters of Biscayne Bay and Indian River when physically able to go in his boats; taking daily drives in his automobile with a chauffeur; shopping expeditions in the adjacent cities of Miami and Miami Beach; making purchases of diamonds and jewelry, and when confined indoors, working on his coins, currency and latest stamp collections, displaying moving pictures and making jigsaw puzzles (of both of which 46 Star Island contained hundreds of examples), occasionally receiving callers, participating in the water carnivals and stimulating outdoor motor racing by giving trophies. He contributed to one of the Churches but attended none and also made donations to various charitable objects and made moderate contributions to many local institutions. *Everything he did indicated a seasonal vacation and relaxation from physical and mental effort* (Fla. Exc. 19).

Footnote 43:

This is an ultimate fact which can be established only by a preponderance of all the evidence, and Massachusetts submits that there was ample evidence on which the Master based the finding, after having heard the witnesses and having seen Round Hills and Star Island.

He realized that the "sun was on his back" and tried to make the most of it. He received great benefit from the

climate and frequently said it was "God's Country" and enjoyed its advantages and beauties. He told Tucker, an old friend from Texas, "This is my home and I expect to live here the rest of my days," (D. 372) and told others that he would stay all the year round if there were not so many damn mosquitoes.

Voting and Taxation There.

Green never registered or attempted to vote in the State of Florida. The system of tax prevailing there called for the payment of annual taxes on the value of real and personal property there situated and in the case of residents, upon all of the intangible personal property of such residents. Green paid no intangible property taxes and on March 31st, 1933, wrote to the Tax Assessor of Dade County that his legal residence was in another State, which statement was accepted by the Assessor and he was told [*48] he * would not be subject to tax on his intangibles except on bank stocks there assessable. No effort was made to assess him as a resident.

In 1931 and again in 1933, his friend, Walter Allen, of Terrell, Texas, advised him to change his legal residence from Texas to Florida because of certain pending tax legislation in Texas. After consulting his attorney, Charles W. Pierson, who advised him what legal steps were necessary to make a change of domicile and that as he had a residence in Florida it would only be necessary to make a formal announcement of his intention,—Green did nothing (Fla. Exc. 37)

Footnote 44:

Massachusetts understands that the Exception does not challenge the accuracy of the facts stated in the finding. We shall not attempt to summarize the Exception, but we do agree with the claim made in the Exception that the change of residence proposed to Green by Allen was conceived by the parties to be a technical change for tax purposes, and not a change in respect to where Green would actually live and have his real home.

and as late as March 29th, 1935, he testified, under oath, in a judicial proceeding in Florida that Texas was his legal residence. (D. 98, 226-231.)

APPLICABLE PRINCIPLES OF LAW.

The foregoing Findings of Fact indicate that the factors usually relied upon in the determination of domicile are here of little assistance.

Green was born in England; reared and educated in Vermont, Massachusetts and New York; in early manhood he adopted Texas as his domicile of choice and lived there for twenty years; married in Illinois and thereafter lived with his wife in domestic establishments in New York, Massachusetts and Florida; maintained a business office in New York for twenty-five years preceding his death; declared in his Will and legal documents and consistently maintained up to the time of his death that Texas was his legal residence; died in New York and was buried at Bellows Falls, Vermont, where his parents were interred, after services conducted at Round Hills, Massachusetts.

The four persons who were nearest to him in life—his wife, his sister, Mr. Potter, his office manager, and Mr. Marshall, his secretary—have been able to give but little aid in the solution of this problem.

Mrs. Green, an original party to this cause, filed an answer in which she asserted Texas to be the domicile of herself and husband. She was represented by counsel at the hearings in Texas and was a party to the probate proceedings in New York, opposing the domiciliary claims of that State. When this New York proceeding resulted in a settlement with Mrs. Wilks, Mrs. Green disappeared from this case and there is nothing in the record to indicate [*49] that she * resumed her former Texas domicile as she might have done at any time after her husband's death. On the contrary the evidence shows she remained

at Round Hills for six months thereafter. We can only surmise that she may have been influenced in claiming Texas by the advantages which might accrue from the community property laws of that State and that she may have been deterred from returning there by the local criticism which the witness McDonald referred to or because she had found the social environment of Round Hills and Star Island more congenial.

Mrs. Wilks in her answer in this case as well as in the New York proceeding, (where she claimed under her brother's Will in which he declared Texas to be his legal residence) has denied that he was a resident of Texas and through her counsel in this proceeding asserts that his domicile at the time of death was in Massachusetts.

Neither Mrs. Green nor Mrs. Wilks has given any evidence to explain the inconsistency between Green's declarations and his actions or the conflict between themselves upon this issue of domicile.

Mr. Potter, his office manager and the representative of the Green Estate, whose testimony has been relied upon by all of the parties to the case, willingly produced the books, records and correspondence of Green and of his family holding companies, testified that from their first association in New York until his death Green claimed Texas as his legal residence and in his instructions to all at the office insisted that that State be given as his permanent residence in all legal papers. Walter Marshall, his secretary, testified to the same effect; but neither was able to give any intimation of the real intention behind Green's declarations and actions except what may be inferred from his evident desire and frequently announced purpose to escape and minimize taxes.

The desire to keep down taxes may be a perfectly proper reason for making a change of domicile (*McCready vs. Kelley*, 138 Mass. 372).

Where, as here, declarations and conduct are in conflict, declarations alone do not afford any safe guide in determining the issue, especially where they have been inspired by selfish motives (Tex. Exc. 39).

Footnote 45:
The point involved is one of law.

Re *Trowbridge*, 266 N. Y. 283;
Re *Newcomb*, 192 N. Y. 250.

[*50] * These two cases bear many points of resemblance to the case at bar and deserve careful consideration.

When the essential requirements of actual residence and intention, as indicated by declarations, do not agree, it becomes necessary, in order to ascertain domicile, to make a minute inquiry into the habits, character, pursuits, social and domestic relations, business and political affairs and indeed the whole history of the person from his youth to his death,—the conclusion depending upon the weight of all of the evidence and the facts and circumstances in favor or against the conflicting places of residence.

Thayer v. *Boston*, 124 Mass. 132, and other cases, 19 Cor. Jur., Sec. 72, C. 1, p. 435.

Expressions of desire to retain a domicile in one State cannot prevail over the intention to make a new home in another State as manifested by actual removal thereto and manner of living.

Dorrance's Estate, 309 Pa. 151, 163 A. 303.

Conduct is of greater evidential value than mere declarations of intent (Tex. Exc. 37).

Footnote 46:
The point involved is one of law.

Kennan Res. and Dom. 86;
Beale's Conflict of Laws, 253, 254;
Re *Trowbridge*, *supra*.

Declarations must, of course, be considered in connection with other facts as an index of intention, written being given greater weight than oral, but they have been termed the lowest species of evidence and are of no value when *made for the purpose of creating evidence in favor of the declarant after he has become appreciative of the consequences resulting from a change of domicile* (Tex. Exc. 38).

Footnote 47:
The point involved is one of law.

19 Cor. Jur. Sec. 76, 5, pp. 439-40;
Canadian Pacific Railway v. *Wenham*, 146 Fed. 207-8.

In explaining the statutes of Texas relating to the regulation of elections, counsel state in their memorandum (p. 27):

"We may add, appropriately, we think, that while Col. Green hal ually exercised the privilege of voting in Texas, Article 2958 had application to him and restricted his right to his residence as defined, namely, to the place where he usually slept at night. When he took up his actual [*51] abode * in other States, and no longer had a place of residence in Texas, it is manifest that the standard of this statute not only had no further application to him, but it is obvious that it was incapable of application. Since he had no 'place where he usually slept at night' (in Texas) the test could no longer be applied. The old residence continued to control, just as when he lived in the State."

Counsel had previously pointed out in their citation from 5 Tex. Jur. 708-9, that under the law of Texas two things must concur to constitute domicile: First, residence and second, the intention of making the place of residence one's home (Tex. Exc. 18).

Footnote 48:
The point involved is one of law.

The undisputed facts clearly show, as this admission of counsel indicates, that after 1911 Green no longer had a place of residence in Texas. *The domicile of choice which he established in Texas in 1892 and maintained until 1911 was abandoned in fact and his domestic establishment and all of his personal belongings removed to New York* (Tex. Exc. 17).

Footnote 49:

This finding is of mixed law and fact. In so far as it is a finding of fact, it is amply supported by the preponderance of all the evidence.

His intention to return to Texas might be presumed while temporarily residing in New York engaged in the conduct of his own and his mother's business, if he had done nothing inconsistent with the intention to return (Fla. Exc. 38).

Footnote 50:

This finding is amply supported by the evidence. See Massachusetts' Brief dealing with Green's intentions during the period after he was called to New York by his mother.

After his mother's death in 1916, his marriage in 1917 and he had come into the full enjoyment of his fortune and was free from restraint, Green might have returned to Texas and re-established himself in an actual permanent home there. Instead of doing so, he relinquished his nominal abode which he had obtained by renting a room in the house of Mrs. Jarvis in Terrell, which he never occupied (N.Y. Exc. 59; Tex. Exc. 10),

Footnote 51:

Both New York and Texas object to this finding on the ground that the room in the house of Mrs. Jarvis, in Terrell, was not retained until Hetty Green's death, but was given up several years before, in 1914. Massachusetts acquiesces in this exception. The rent was paid for three years and then stopped, and the room was no longer held for him (R. 25).

New York further excepts to the finding on the ground that "what Green might have done after his mother's death and his marriage is purely speculative." It is respectfully submitted that there is nothing any more speculative about what Green might have done than about any of the findings relative to Green's intent, all of which must be inferences drawn by the Master from the evidence in respect to Green's character and what he said and did. The finding is not speculative, and it is amply supported by the preponderance of all the evidence. See Massachusetts' Brief dealing with Green's intentions during the period after he was called to New York by his mother.

and in the visits he made to Texas in subsequent years to attend the meetings of his Railroad Directors, to vote, or for the purpose of taking medical treatment, he stopped at hotels or at the Buie Sanitarium at Marlin. After 1921, these visits ceased or were diminished and he visited Texas only for treatment at Marlin. The suggestion of his friends that he purchase a house at Marlin and take up his residence there met with no response from him. *Instead of returning to Texas, almost immediately after his marriage he went to Round Hills, Massachusetts, where he and his sister owned what he regarded as an ancestral tract of land, purchased additional land and there proceeded to erect a palatial home which was completed and occupied by him in 1921* (Tex. Exc. 11).

Footnote 52:

Massachusetts believes that this finding is amply supported by the evidence. See paragraphs 8, 9, 10 and 11, Part I of the Appendix.

[*52] * During the interval between 1917 and 1921, he spent much of his time at South Dartmouth superintending the building operations.

Thus, we have the actual abandonment of the Texas domicile of choice and the actual acquisition of a new home in Massachusetts (Tex. Exc. 43, 44).

Footnote 53:

Massachusetts understands that the Texas Exceptions do not dispute the physical abandonment of an actual place of residence in Texas or the physical acquisition of an actual place of residence in Massachusetts, because those facts are undisputed. In so far as the finding relates to the ultimate conclusion of an abandonment of a domicile in Texas and the acquisition of a real home in Massachusetts, it is amply supported by a preponderance of all the evidence.

Undoubtedly residence unless combined with intention cannot effect a change of domicile but where the declarations are self-serving or made with intention to deceive, they will be disregarded and the conduct of the party alone govern (Tex. Exc. 12, 20).

Footnote 54:

The point involved is one of law.

After 1921, Green's declarations that he had a legal residence in Texas were made to the taxing officials of New York, Massachusetts and Florida for the purpose of escaping taxation in those jurisdictions. As a matter of fact, he had no actual abode or residence in Texas, and in law, had abandoned his former home there (Tex. Exc. 13, 45).

Footnote 55:

Texas Exc. No. 13 relates particularly to the first sentence of the above finding and makes the point that there is no evidence to justify an alleged implication in the finding that Green deceived the taxing authorities of the Respondent States, and makes the further point that the taxing authorities of the Respondent States always had full opportunity to observe and consider all the material facts relative to domicile. Massachusetts makes no claim that Green intended to make any misstatements or misrepresentations, and does not believe the Master intended to find that he did. See footnotes 57 and 58, *infra*. There is ample evidence to support the Master's finding that Green's attempt to maintain a "legal residence" in Texas was for purposes of tax economy.

Texas Exc. No. 45 deals particularly with the second sentence of the above finding. It does not dispute the accuracy of the fact stated, but raises the legal point that a Texas domicile is possible nevertheless.

He could not elect to make his home in one place for the general purposes of life and in another place for the purpose of taxation.

Feehan vs. *Tax Com.*, 237 Mass. 169, 171;
Re *Trowbridge, supra.*

As Mr. Justice Holmes said in *Dickinson* vs. *Brookline*, (181 Mass. 195, 196), "When you intend the facts to which the law attaches a consequence, you must abide the consequence whether you intend it or not".

National City Bank vs. *Hotchkiss*, 231 U. S. 50, 56.

In *Gilbert* vs. *David*, 235 U. S. 561, 570, Mr. Justice Day said:

"Applying these definitions to the conduct of plaintiff, we have no doubt that the court was right in holding that he had acquired a new domicile in the State of Connecticut. He removed there with his family, and occupied a house to which he held the title. He owned other real estate in Connecticut,

inherited from his uncle. He took a letter from his church in Michigan to a church in Danbury, Connecticut. For about ten years he was not back in Michigan, except for a short time, and then for a temporary purpose. The Michigan homestead and much of the furniture used there were sold upon the removal to Connecticut. For more than ten years he resided continuously with his family in the same house in Danbury, Connecticut. While the plaintiff did not vote in Connecticut, as far as the record shows, it is in evidence that he declared to another his intention of becoming [*53] a voter * there. To some witnesses he declared his purpose to reside in Connecticut. As against this testimony, it appears that he left his desk with his brother-in-law in Michigan, which he declared was for the purpose of 'holding his residence there.' To some witnesses he declared his intention to live in Michigan and expressed his preference for that State as a dwelling-place. He continued to pay membership dues to orders to which he belonged in Michigan.

"It is apparent from all the testimony that the plaintiff may have had, and probably did have, some floating intention of returning to Michigan after the determination of certain litigation and the disposition of his property in Connecticut, should he succeed in disposing of it for what he considered it worth. *But, as we have seen, a floating intention of that kind was not enough to prevent the new place, under the circumstances shown, from becoming his domicile*" (Tex. Exc. 21).

Footnote 56:

The point involved is one of law.

It was his place of abode, which he had no present intention of changing, that is the essence of domicile."

Green, although carefully advised by able counsel, did not have this legal conception of domicile. *He was nomadic in his tastes and evidently regarded domicile as something distinct*

and apart from home or residence. Home to him was where he happened to be for the time being with his wife and domestic establishment (Tex. Exc. 14, 22, 23, 24).

Footnotes 57 and 58:

We do not undertake to summarize Texas Exc. Nos. 14, 22, 23 and 24 relative to this finding. We respectfully submit that what the Master had in mind was that it was Green's manner to refer to wherever he happened to be living at the moment as home, and that he entertained the mistaken idea that he was entitled to have a legal residence in some place other than his home, even though he did not live there or intend to live there. If this is the meaning of the finding, we submit that it is fully supported by the preponderance of all the evidence. For declarations in which Green referred to Round Hills, Massachusetts, as his home, see paragraph 55, Part I of this Appendix.

In the early days in Texas, it was his bachelor quarters in an old Opera House at Terrell, a converted building in the business district of Dallas or in his private railroad car. In New York, rooms, simply furnished, in an old house owned by his grandfather's estate or in an expensive hotel apartment at the Waldorf or Sherry-Netherland. Later, he made his home on the yacht "United States" or on one of his house boats in Massachusetts or Florida waters, and in the closing years of his life, in palatial homes which he seasonally occupied at Round Hills, Massachusetts, and Star Island, Florida. *He told his attorney, Charles W. Pierson, in 1931 that he had no sentiment where his legal residence might be* (D. 191) (Tex. Exc. 42).

Footnote 59:

The exception does not object to the accuracy of this finding, but merely to its evidentiary value.

To him domicile was a mental state where he could obtain certain political advantages and freedom from taxation. He was not interested in making a home for posterity because he and his sister were the last of their line (Tex. Exc. 22; Fla. Exc. 39).

Footnote 60:

Part of these Exceptions relate to points of law. In so far as they relate to the fact of Green's mental state, reference is made to footnotes 57 and 58, *supra*.

He did have some unformulated notion of leaving a

memorial to his mother, his sister and himself and the granite edifice at South Dartmouth on the land that had been in his family for generations, surrounded
[*54] *by mari-* time antiquities in which the Green fortune originated, with mementoes suggestive of his whaling ancestors, seemed to him to be the most appropriate memorial he could leave after death and the most permanent home he could enjoy while living* (N.Y. Exc. 71; Fla. Exc. 40).

Footnote 61:

Massachusetts believes that this finding is amply supported by the evidence. See paragraph 12, Part I of this Appendix.

There is no sufficient evidence to show that Green ever intended to make New York his permanent home (Fla. Exc. 41; Tex. Exc. 16, 41).

Footnote 62:

New York has filed no exception to this finding, and the Texas Exceptions do not challenge the accuracy of this finding, but object that similar findings should have been made in respect to Massachusetts and Florida.

We are not certain whether the Florida Exception objects to the accuracy of the finding or merely to the supposed manner in which the Master reached the conclusion stated in the finding. In any event, the finding is amply supported by the evidence. See Massachusetts' Brief dealing with Green's intention during the period after he was called to New York by his mother.

He rejected the suggestion when it was made to him by Mrs. Green and Mrs. Stafford in 1917 or 1918; he made no effort to become a voter in New York after he stopped voting in Texas; he owned no real estate there except what he acquired as a result of the foreclosure of mortgages and paid no personal or income taxes to New York. He had no close friends in that City and did not like the life or the people. After 1921, he was unable to go to theaters or baseball games as theretofore and was compelled to spend his time indoors and adopt hobbies which replaced his outdoor activities. He removed all of the furnishings of his former residence, 5 West Ninetieth Street and all of the early associations with his mother, except a few of her letters, to South Dartmouth.

In a sworn statement to the taxing officials of New York, he declared that he was not and never had been a resident of New York (Fla. Exc. 42; N.Y. Exc. 67).

Footnote 63:

This finding is clearly supported by the evidence. Green's affidavits (Tex. Exs. 32-3) appear at pages 59 and 60 of the Digest. There are two affidavits, verified November, 1916, and they aver, *inter alia:* "I am not and never was a resident of the City of New York or of the State of New York."

He never went to his office, 111 Broadway, after 1921 and carefully refrained from visiting the City during the last years of his life because of pending litigation. At the time of his death, his apartment in the Sherry-Netherland was under a temporary lease and for many years had been occupied by him for brief periods in the Spring and Fall while *en route* from Massachusetts and Florida.

This domicile actually established in Massachusetts in 1921, notwithstanding the mental reservation of his Texas residence, was not abandoned when he built his Star Island home (Fla. Exc. 43).

Footnote 64 :

This is an ultimate fact which the Master was fully justified in finding upon the preponderance of all the evidence.

He went to Florida on the advice of his physician in 1924 and after living in hotels and on house boats, purchased three lots and built a beautiful home which he luxuriously furnished with everything necessary for his comfort. In Florida, he was able to be out daily in the sunshine and to avoid the chill of Northern Winters and obtained relief from the arthritic condition which was sapping his vitality. Doubtless those who have visited both Round Hills and Star Island would prefer to live at the latter place, where there is every convenience, almost perpetual sunshine and a home-like atmosphere. *But under the authorities, the*

[*55] *adoption of a changed location or a * subsidiary or secondary home for the sake of health does not con-*

stitute the abandonment of the old and the acquisition of a new domicile (Fla. Exc. 45).

Footnote 65:

The point involved is one of law.

His old friend, Walter Allen, of Terrell, Texas, who had been keeping him advised regarding the tax laws of Texas, *and his personal counsel, Charles W. Pierson, in 1931 and again in 1933, advised him to formally adopt Florida as his legal residence* (D. 192, 226, 229) (N.Y. Exc. 75),

Footnote 66:

The letter from Pierson to Green will speak for itself. It is printed at page 226 of the Master's Digest of the testimony.

but he made no attempt to do so; *never voted there, never paid any intangible or income taxes in Florida and as late as 1935, in a judicial proceeding in Florida, testified that he was a resident of Terrell, Texas* (Fla. Exc. 46),

Footnote 67:

The Exception does not challenge the accuracy of this finding, but objects to the supposed significance given to it by the Master in reaching his conclusion. It further states that Florida had no income tax. Florida did, however, have a tax on intangibles owned by its residents, which Green did not pay. See Report, p. 47, to which no exception on this point has been made.

and had a Summer home at Round Hills, where he spent about six months of each year and divided the remainder of the year between New York, Texas and Florida. Doubtless he enjoyed life in Florida, liked the people, frequently said it was "God's Country" but *did not attempt to make it his own* (Fla. Ex. 48).

Footnote 68:

This is an ultimate fact which is amply supported by the preponderance of all the evidence.

He was sent from Florida by his physician, Dr. Roche, to Lake Placid, New York, in his last illness. The Star Island home was closed when he left and the servants sent to Round Hills. His trunks and belongings were shipped

there and after his death his remains were brought to Round Hills for the funeral services. To Round Hills was shipped the bulk of his collections of stamps, coins and jewels. *Star Island was left in charge of a caretaker and was only visited by Mrs. Green to remove some of her personal possessions* (Fla. Exc. 49).

Footnote 69:

Massachusetts concedes that there is no positive proof to show that Mrs. Green's *sole* purpose in visiting Star Island was to remove some of her personal possessions, but submits that this is an inference that the Master could fairly make from all of the evidence and the circumstances. The fact that Star Island was left in charge of a caretaker was clearly supported by the evidence (Donn, Ev. 8141, D. 348).

When a person who has capacity to acquire a domicile of choice has more than one home, his domicile is in the earlier home, unless he regards the second as the principal home (Tex. Exc. 36).

Footnote 70:

The point involved is one of law.

Beale's Conflict of Laws, Sec. 24.3, p. 189;
In re *Barrow*, U. S. District Court (Mich.) 26 Fed. (2d) 106.

Beale, at page 190, says:

"*The true criterion, therefore, for determining the domicil where there are two homes, seems to be the determination of the order of acquisition of the two homes* (Fla. Exc. 44).

Footnote 71:

The point involved is one of law.

The one which having been first acquired became a domicil remains the domicil, in spite of the establishment of the new home; and the second home, therefore, cannot be a legal domicil so long as the first one remains an actual home.

* * * * * * * *

"A common example of the existence of two actual homes is the case of a person who has at the same time a
[*56] home * in the country which he occupies during a part of the year and a home in the city which he occupies during the remainder of the year. It has been often urged in such a case that the only home at any one time is the one of these two places which for the time the person is occupying; that he carries his *lares* and *penates* with him, and sets them up for the time being in the residence which he is then occupying."

If, as counsel for the defendants say, we must disregard Green's early history, except in so far as it furnishes a historical background, and determine what was his actual domicile at death by considering which of his three residences was the principal, predominant or permanent home, we arrive at the same end (Tex. Exc. 46).

Footnote 72:

The point involved is one of law.

Round Hills was not only the earlier home but as the Findings of Fact show, it was the principal, predominant and permanent home when compared with the Star Island residence (Fla. Exc. 50).

Footnote 73:

This is an ultimate fact which is amply supported by the preponderance of all the evidence.

A portion of the Round Hills Estate had been in Green's family for many generations; it was within a few miles of New Bedford, where his mother was born and raised; it contained almost all of his *lares et penates* and portraits of his ancestors; he had there assembled, at great expense, mementoes of his ancestors and of the whaling industry in which the Green fortune originated; it was there that most of his interests and activities were centered before illness restricted them; he had invested nearly $7,000,000 at Round

Hills as compared with $1,500,000 at Star Island and over a period of years he usually spent five and one-half months there as compared with four and one-half months at Star Island.

Much evidence was given to show that it was designed and constructed to be converted into a museum or memorial of some kind; whereas Star Island was a beautiful private residence. But the monumental character of Round Hills does not detract from its serviceability as a residence and it was occupied as such from the time of its completion until Green's death. *Mrs. Green looked forward to the time when she might be left alone and had selected a site and considered plans for a small cottage on the South Dartmouth estate which were never carried out* (N.Y. Exc. 72; Fla. Exc. 51).

Footnote 74:

The finding is clearly supported by the evidence. Berglund, Ex. 775, p. 281; Neyland, Ex. 6718, p. 181; Davis, Ex. 6513, p. 107; Ex. 6001, p. 108.

This massive edifice on the rocks at Newport would be regarded as simply another millionaire's palace but [*57] on the sandy shores of Buzzards Bay it is not in keeping with the Summer cottages nearby. This may be evidence of Green's lack of taste but is no evidence of his intention not to regard it as a home. Throughout the country many large and palatial residences have been converted into institutions and Green may have had this idea in building the Round Hills mansion. The photographs attached to this Report fairly represent both residences. *Both were homes but Round Hills was the earlier, predominant and principal home* (Fla. Exc. 52).

Footnote 75:

This is an ultimate fact which is amply supported by the preponderance of all the evidence.

CONCLUSIONS.

Upon a careful consideration of all of the evidence in the case and the memoranda submitted by counsel for the respective parties, I find that the domicile of Edward Everhard Robinson Green at the time of his death June 4th, 1916, in fact and in law, was in the Commonwealth of Massachusetts (N.T. Exc. 77; Tes. Exc. 49).

Footnote 76:

This is an ultimate fact which is simply supported by the preponderance of all the evidence.